

HEARING SUBMITTAL TO
DIVISION OF WATER RIGHTS

Kevin Tolton, M.D.
Alta Planning Commission General Plan Public Hearing
March 10, 2005

Right No.: a 28548 & a 28545
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Submitter: Applicant
Kevin Tolton

SUBJECT: WRITTEN COMMENTS ON THE PROPOSED GENERAL PLAN FOR
THE TOWN OF ALTA (ALTA PLANNING COMMISSION GENERAL PLAN
PUBLIC HEARING – THURSDAY, MARCH 10, 2005)

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The naturalist philosopher and governmental pundit Henry David Thoreau once said, "That government is best which governs least or not at all; and when we are ready for it, that is the kind of government which we shall have." And we will never be ready for the kind of government which currently exists at Alta.

This new plan is a radical departure from the 1992 plan. It is written and advocated by people teeming with conflicts of interest. It attempts to give new powers to Salt Lake City Corporation to control and restrict landowners' rights. It is deficient in any thoughtfulness about dealing with the human wastes of the people it encourages to visit the watershed, and it fails to plan for the future water and other municipal services needed by its citizens and required to be provided under the law. Its indifference to providing adequate water infrastructure and pressurized water flow to fight the threat of fire not only violates the current Unified Fire Authority Code, but also threatens the lives, health, safety and welfare of Alta's citizens and visitors. This general plan is full of false claims and erroneous analysis of recorded deeds, documents, laws and binding agreements. It specifically impairs existing vested development rights. It is full of bad faith, poor analysis, and contempt for existing laws. I believe no rational mind could view this plan as anything but a personal diary of a contemptible Mayor full of bilious hatred for all of the principles that act to bind us as Americans.

SECTION 1.1

The "previously available information" the General Plan refers to needs to be defined, identified, cited and referenced. This appears to be the General Plan's first violation of the presumption of good faith and fair dealing. Furthermore, the appendix as well as other "previously available information" has not been provided to the public for inspection prior to the public hearing. The Town, therefore, has violated its statutory duties under UCA 10-9-301, et seq, and 10-9-303 1953 as amended.

In Chapter 1, Section 1.1 of the proposed General Plan for the Town of Alta (herein referred to as TOA) it states, " This General Plan is a statement of public policy." Assuming the plan is public policy, it is imperative that all statements made within the text of the plan be true and correct.

Paragraph 2 of Section 1.1 reads, " The preparation of this plan has been heavily dependent upon previously available information." Clearly the term "previously

available information" refers to something in particular. Whatever this "information" is should be clearly and explicitly defined, to wit, federal statutes, state laws, other state and local governmental regulations, federal or state court adjudications, settlement decrees, TOA ordinances, contracts, agreements, scientific studies relied upon et al..

Also in Section 1.1 is a statement which is nebulous and unacceptably confusing; "implicit in this General Plan, however, is the concept that the process by which decisions are made is as much a part of policy as the conclusions concerning land use for the planning period." This language ought to be stricken from the plan document. Furthermore, the phrase, "Thus, the means for dealing with new information is built into the process of decision making and plan modification" is unclear. The plan is not a "guide for decision making" but rather is an attempt at municipal legislation by means of a public policy declaration.

SECTION 1.2 (EXISTING PLANS AND POLICIES)

Section 1.2 also states "adoption of this plan will supercede the General Plan for the Town of Alta of 1992" and is generally consistent with the policies stated therein." Any close reading of this new General Plan shows that it is in fact radically different from the 1992 plan.

SECTION 1.3 EXISTING PERMITS

This section states that nothing will be done to "affect any specific existing agreements made between the Town and developers." However, in an agreement between the Town of Alta and Developer Sorenson Resources (MSI) dated June 16, 1982, page 2, 4(d) it is stated, "The Town shall use best efforts to protect the existing zoning and development posture of the Sorensen property and other property owners within the town." (MSI Inc. v. Town of Alta Civil No. 960906424). The sum and substance of this General Plan revision is nothing, if not an attempt to abrogate its legally binding agreement with MSI and the rest of the other landowners in Alta. On its face, the General Plan is a breach of contract and the legal obligation of good faith and fair dealing. The Mayor has signed an agreement to protect the zoning status of property in the Town.

SECTION 2.1 GENERAL DESCRIPTION

I believe this section contains a statement which is patently false. "Access to the canyon is by State Route 210, which ends at the Grizzly Gulch area." State Route 210 shows up on the United States Geological Survey Map starting on Wasatch Boulevard and approximately 7400 South and extending up into the heart of Albion Basin. It is therefore incorrect to state that it ends at Grizzly Gulch area (the black tar pavement might, but State Route 210 does not.) The road to Albion Basin is a dedicated public highway. The Forest Service does not own the road, and therefore, the Town should not make false or misleading statements that imply that the Forest Service owns this road and therefore has legal rights to control it. (See more on State Route 210 under my comments

at Section 3.14). Salt Lake County conveyed the rights to the road it obtained from Michigan City Mining Company in 1941 to the U.S. Government AND TO THE PUBLIC for the "full, free, quiet use... as a public highway." (emphasis added)

SECTION 3.8-ANNEXATION

The General plan points out that "when addressing parking and road issues for Alta, careful attention must be given to Snowbird, 1.5 miles down canyon. Without such consideration, any decisions made specifically for Alta could be totally offset by opposite policy decisions made by or for Snowbird." Pursuant to Section 3.8 regarding annexation policy, it might be important to examine the potential annexation of Snowbird in order to take advantage of the large flat parking areas (which could be converted to multi-level parking structures) which Snowbird possesses. Snowbird could thereby support a parking base camp served by a traffic "congestion-busting" shuttle service up to Alta. Annexation would also ameliorate future philosophical and policy decision-making conflicts.

SECTION 3.14 SUMMER CAMPGROUND ROAD

In addition to Section 2.1 of this general plan, Section 3.14 also deals with State Route 210. This section deserves mention here as well, because this road is really not officially called the Summer Campground Road, but rather State Route 210. Here again, this General Plan document makes statements which are inconsistent with the facts. This section in the General Plan proposal attempts to assign a new nomenclature to State Route 210, calling it Summer Campground Road. Simply giving an old road a new name does not change its inherent character. It is an old mining road with all the associated legal rights, privileges protections and ownership designations. If there is no intent on the part of the drafters of this document to change the name of the road, then simply refer to it as State Route 210. The assertion in the TOA General Plan that "ownership of the road along with a 100' right of way remains with the Forest Service" is untrue. Salt Lake County granted the Forest Service an easement for a public highway. The Forest Service went to Salt Lake County because the Forest Service did not own the road or have rights to control the road. Currently, the General Public owns the road mentioned in the plan.

I believe State Route 210 provided access to original patented mining claims which historically started out as a simple dirt road. If the TOA, through this public policy General Plan, consciously set out to establish a road master plan, then it has failed miserably. If this is not an attempt to map out and define all roads, accesses and rights of way within the town limits, then this plan should be held up until which time as appropriate legal research is done to provide the needed clarification. Case in point, State Route 210, is referred to in legal documents, maps and common parlance as Utah Route 210, State Route 210, State Road 210, Little Cottonwood Canyon Scenic Byway and the Old Alta Highway, and at times, simply as Highway 210. State Route 210 extensions include the Bypass Road, Blackjack Road, Blackjack Rd 10, Sugarplum Road, Martha

Road, Powderun Road, Collins Road, Daylodge Road, Peruvian Road, Hellgate Road, Albion Basin Road, Hawkhill Road, Campground Road, Devil's Castle Road, Supreme Road, Albion Alps Road, Cecret Road and Homestake Road (some of which are referred to in the road map appended to the 1992 Alta General Plan.) These might all have different legal names, ownerships, use rights and jurisdictional protections.

Other sections of the road not mentioned in the plan include the section of road going to the bottom of Sugarloaf Lift as it zig zags the back way up to Cecret Lake, the road going up to Melville's Mine which leads towards Catherine's Pass, the jeep trail going to and around the Sunnyside Lift, as well as other jeep trails and old mining roads accessing various other parts of Albion Basin and Alta in general. The impact of the ownership and right of access conveyed by all roads both named and unnamed is of paramount importance. All historical roads in the town including those going to the various ridgelines are part of the cultural heritage (and have real property rights retained under the mining claims and federal patents) and therefore, should be preserved.

The Mayor, the Alta Town Council, the Planning Commission and the Town legal counsel should all attempt by whatever means possible to perform the necessary due diligence to ascertain the exact location, course, boundaries, rights of way, easements, ownership, control rights, etc. of State Road 210 including all jeep roads, other access or auxiliary roads and to show them on an official TOA map with proper legal descriptions and designations. Jurisdiction of any road cannot be arbitrarily assigned. The mayor simply has a duty to get to the bottom of this. This would include making the proposed Section 4.11 for "Off Road Vehicle Use" conform to the legal status of all roadways. For the mayor to appear as if he is handing over control and jurisdiction of many likely RS2477 rights of way and other roads legally owned by the state and county to the Forest Service, or others for that matter, simply by claiming it in a public policy document is naïvely over-assertive and patently absurd.

SECTION 2.3 DEVELOPMENT PHILOSOPHY

This entire section of the General Plan is internally inconsistent and perhaps disingenuously drafted. The statements made here by the planning commission and town drafters of this general plan call into serious question their collective abilities to gather good information and properly analyze it. It is anti-development in its scope with respect to private property owners' rights but pro-development for Alta's self-determined development needs. First of all, within the text of this proposed General Plan of Alta lies a generous list of new development proposals, to wit:

- 1) the construction of moderate income housing (section 3.9) required by Utah Statute (Title 10, Chapter 9, Part 307 of the Utah Code Annotated, 1983, as amended)
- 2) new Septic tank facilities for hikers, campers, bikers et. al. in the pristine Albion Basin area (General Plan Section 3.1).

- 3) The cutting of new trails in Albion Basin (i.e. the proposed scarring of one of Utah's most beautiful places by Alta and the Friends of Alta?)(General Plan Section 4.9)
- 4) The proposal of a big hotel development at the Patsy Marley/Grizzly Gulch area (aka the Joanne L. and Duane E. Shrontz project).
- 5) The purchase of new parcels of land to develop a new town site (Section 3.18 of this General Plan proposal) in order to construct municipal town buildings including but not limited to an "Alta Central Building" and other critical town facilities. (NOTE: The current Alta fire station and town building are on National Forest Land)

The broad statements in Section 2.3 regarding viewshed protection, wetlands, slope, interconnect, maintaining "the Alta as we know today" are transparent attempts to make a legislative end-run on property rights. This plan is full of contradictions and inconsistencies. It specifically impairs existing vested private property and development rights. For example, Section 3.1 states Alta will support and enforce the policies, regulations, and plans of Salt Lake City, the Salt Lake Health Department... and then in Section 3.8 says, "Past incidents have demonstrated a need to prevent possible conflicts resulting from decisions and actions by Salt Lake County agencies."

Recently, Alta approved (along with the Forest Service, Salt Lake City Water, and various other governmental and environmental protection agencies) the construction of a huge water pipeline project disturbing soils, realigning water drainages and destroying environmentally sensitive plant life with tractors, bulldozers and backhoes. (see attached pictures)

This Albion Basin Pipeline project also involved drilling horizontally through the mountain slopes to the bottom of Cecret Lake ripping through the center of Albion Basin for thousands and thousands of square yards, whose delicate wetlands, riparian areas, vegetation and viewsheds are professed to be targeted for protection by this very plan.

The natural drainages and riparian water courses have been completely altered, including how water enters into the primal tributaries of the waters of Little Cottonwood Creek.

That is, it has damaged the watershed water quality for a long time to come by disturbing and releasing bacteria like e-coli and other potentially toxic coliforms from the soils; it has damaged the watershed by creating new areas of erosion, changed the riparian water run-off courses and destroyed the "viewshed" by constructing power plants, transformers and pump stations in the watershed. It has irreparably destroyed the watershed's existing plant life along the huge and grotesque cut swath running from the base of Sugarloaf ski lift to the once pristine Cecret Lake.

Can Salt Lake City be trusted to protect the citizen's watershed when it not only allows, but sponsors projects like this? Salt Lake City in 1988 took over obligations and various

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What the TOA has allowed in this Albion Basin pipeline development is exactly what it professes to condemn.

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water supply contracts of Little Cottonwood Water Company; and Cecret Lake water rights come to Salt Lake City via exchange agreements with many of the stockholders of the now dissolved Little Cottonwood Water Company and change applications involving Thompson Ditch Company rights to Lake Flora. Salt Lake City cannot arbitrarily and capriciously raise and lower the "environmental protection of the watershed" flag only when it's convenient. For anyone in the town of Alta to try and use environmental concerns about the watershed to justify an anti-development agenda places them in the highest echelons of hypocrisy and disingenuity. This double standard is an assault on peoples' intelligence and represents one of the most transparent attempts seen in a long time by the TOA to on its face appear pro-environment, but then break all of its own rules when in its own judgment, it needs new improvements or its cronies with similarly aligned political interests need favors. For the TOA to hide behind Salt Lake City Water Corporations extraterritorial powers to protect its watershed from soil erosion, from plant life destruction, from soil disruption and its associated contamination issues, and from the disturbance of natural drainages and water courses and then giving support and approval when Salt Lake City Corporation wants to repeal, ignore and forget about all of those same environmental watershed protection arguments when it puts on its development hat (even if it means violating all of their own watershed protection rules) is purely and unabashedly absurd. The truth is the whole "protect the watershed" propaganda is a shill to prevent property owners in the Albion Basin from legally developing their own private properties.

If Levitt wants to keep Alta pristine, let him be the first to tear down his Alta lodge, his Albion Basin cabin home, his "view" condominium, and leave the canyon.

This is another example of the TOA exhibiting inconsistent policies which are anti-development for private property owners, but pro-development for the TOA's interests. What's more, the TOA has arbitrarily and capriciously applied different standards to arbitrarily defined groups: 1) Albion Basin property owners and then 2) all other private property owners in Alta. This arbitrary creation of separate classifications for similarly situated people violates the law because it burdens a fundamental private property right, and it targets a suspect class given the fact that the whole town of Alta (not just Albion Basin) is in the watershed area.

The General Plan, by targeting the Albion Basin property owners (to deny them sewer and water and declare their land a high priority for acquisition) and threatening to condemn them if they resist shows an inexplicable animus toward a class of people (i.e. Albion Property Owners) and it is clearly evident that this difference in treatment lacks a rational relationship to any legitimate state interest. Levitt has a personal vendetta to stop Albion Basin landowners from exercising their vested development rights and is using this plan as a device to grab land for personal and political gain for low-income housing, town site development, municipal parking structures, and as trading cards to do land swaps with the Forest Service, Salt Lake City and others.

The positions taken in this General Plan contradict promises made by Mayor Levitt to landowners during public meetings, annexation agreements and binding litigation agreements.


More important than exposing Alta's sham environmental protection campaign, however, is the elucidation of the utterly and completely untenable position that Alta and Salt Lake City Water (Division of Public Utilities) find themselves in; namely,

- 1) Alta is a municipal corporation and as such has statutory duties to provide water, sewer and other municipal services under the Utah State Constitution, its own Annexation Policy Declaration Statement and Resolution of Annexation, State of Utah Annexation Statutes and Equal Protection clauses of the Fourteenth Amendment of the U.S. Constitution.
- 2) The Town's water rights are represented by a 1976 Water Exchange Agreement with Salt Lake City. The Town of Alta admits that it currently uses on average 150,000 gallons per day of its 265,000 gallons per day available under the 1976 water agreement with Salt Lake City Corporation. Moreover, the town has represented to the Division of Drinking Water of the State of Utah that it has the water source capacity to draw or divert water from the Emma Mine Tunnel culinary water source 184 gallons per minute. The towns plan currently calls for a maximum diversion rate of only 126 gallons per minute (or only 181,440 gallons per day of 265,000 gallons per day that is available for use). **This represents enough water to supply another 209 additional cabins.** The TOA, therefore, cannot hide behind Salt Lake City in telling property owners that there is no water available to properties within the 1976 boundaries under the 1976 water sales agreement. In a letter on this subject written by Salt Lake City Water lawyer Chris Bramhall, he states:

"Salt Lake City's obligation to sell water to the Town of Alta is governed by the terms of that certain Intergovernmental Agreement – Water Supply Agreement Salt Lake City to Alta City, dated as of August 12, 1976 (the "Agreement"). Pursuant to Section 3 of the Agreement, the Town of Alta may construct the necessary pipelines and other facilities to distribute water to water users within the corporate boundaries of the Town. Section 8 provides that "said pipelines shall not be extended to or supply water to any properties or facilities not within the present city limits of Alta without the prior written consent of City." These two Sections together leave no doubt that the Town of Alta is only entitled to use water, and Salt Lake City is only obligated to sell water for use, within the boundaries of the Town of Alta as those boundaries existed on August 12, 1976."

-Chris Bramhall, Assistant Attorney for SLC Corp., July 12 1996

In accordance with the above mentioned policy, Salt Lake City in 1995 consented to an extension of Alta's water lines to the Alpenglowlodge in the Albion Basin which falls within the 1976 city limits. The Alta Town

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sewer line also extends up into Albion Basin to the Alpenglow which contradicts the General Plans assertion in Section 3.1, "there is no feasible method of extending the public sewer to this area...". Well, the fact is that it is feasible to construct pipelines. Alta already constructed the largest pipeline in town – all the way up and through Albion Basin. That pipeline is only feet from the Cecret Lake Subdivision.

- 3) The Town of Alta, by granting its permission to both Salt Lake City Water Corporation and Alta Ski Lifts request to build a water conveyance pipeline through the center of Albion Basin not only stripped itself of any legitimate right to sound its anti-Albion Basin development mantra, but also added to its available water distribution infrastructure and made water carrying infrastructure pipelines accessible and physically available to many of the property owners in Albion Basin. The Town of Alta may try and hide behind Alta Ski Lifts and/or Salt Lake City, by claiming that the water pipeline belongs to Alta Aki Lifts; but Alta Ski Lifts Co. is getting water from Salt Lake City Corp under the TOA water agreement. So are we to believe that the TOA has neither an interest in nor control of the water pipeline? Of course, the lawyers have thought this through and have supposedly made Alta Ski Lifts Co. stipulate under contract that the Albion Basin water is not clean enough to be culinary and that to have qualified to get the pipeline, Alta Ski Lifts and the TOA had to promise not to share the pipeline by extending it to anyone else.
- 4) Cecret Lake Subdivision, for one, is an annexed territory that predates the 1976 intergovernmental water supply agreement and therefore the TOA can supply its current contractually available surplus water to property owners within the 1976 TOA boundaries (i.e. Cecret Lake Subdivision lot owners).
- 5) Salt Lake City admits that when providing water to entities outside of its city limits that it functions as a water company and prior Little Cottonwood water contracts govern current Salt Lake City water exchange agreements.
- 6) Salt Lake City Water Corporation holds all the cards with respect to providing water to the TOA not because Alta has lacked the power and authority to buy water rights or even condemn water for Alta's purposes, but because it has lacked the intelligence of foresight and planning to develop alternative water supplies. Again recall that Mayor Levitt has refused water rights offered for purchase by the Town from the Despains. This is a clear breach of Levitts own promises and a breach of the covenant of good faith and fair dealing. The TOA should have been seeking water in the same fashion Salt Lake City has been pursuing it for decades upon decades. Did the TOA even try to purchase shares in Little Cottonwood Water Company when it sold out its shares to Salt Lake City and dissolved in 1994? A Salt Lake City Corporation letter from Leroy W. Hooten, Jr. to Mayor William H. Levitt dated February 14, 1989 confirms that on August 30, 1989, Mayor Levitt met with then Mayor Palmer A. DePaulis, "to discuss the progress made in acquiring the Albion Basin and the Little Cottonwood Water Company." Why wasn't the mayor looking out for the TOA by trying to buy shares in Little Cottonwood Water Company

and from other Little Cottonwood water rights owners including the Despains and water rights owners like Town Councilman Bill Lennon for Alta itself? Salt Lake City could now unilaterally terminate the 1976 Water Supply Contract and destroy Alta as we know it. This is a terrible situation for the TOA and a predicament of its own making. The obtuse Alta planner will say, "but Salt Lake City has never not supplied water and it is not anticipated that it will ever cease to sell enough water to the TOA." Mayor Levitt recently received and refused an offer from North Despain water rights holders to sell to the Town water rights sufficient for firefighting, domestic and commercial use and enough water to solve the Town's antimony problem by diluting out the heavy metal concentrations in order to meet EPA standards.

- 7) Water is the lifeblood of Alta and the notion that Salt Lake City would never deny Alta water has already come true. Salt Lake City has already purportedly turned down a request for more water as per the mayor's own testimony in the Haik case. As one concrete example of this, in 1983 Alta requested an amendment authorizing extension of water to newly annexed Albion Basin properties, but Salt Lake City refused. (Interestingly enough, on January 15, 1997 the State Engineer approved Salt Lake City's Change Application 57-10015 (a16846) for 15.75 acre feet from "a spring and mine tunnel located 1) south 230 feet and west 900 feet; and 2) north 412 feet and west 833 feet both from the NE corner of section 9, T35, R3F, SLB/M...to be used in the Re N ½ NE ¼ and the SE ¼ NE ¼ of section 9, T35, R3E SLB/M for "Canyonlands, Inc." to divert up to 15.75 acre-feet of water annually for only domestic requirement for 35 homes in the Albion Basin subdivision." Also surprising is the fact that this change application violates Salt Lake City's own water sales ordinance in that it enlarges the May 22, 1963 agreement with Canyonlands, Inc. from 50 gallons per day to 400 gallons per day). So Salt Lake City has the water but it doesn't want to give it to Alta – at least to any private property owners in Albion Basin. So the point is the TOA should maintain its posture that Salt Lake City is the benevolent master? New politicians with new whims, agendas and new water sales policies could terminate the 1976 Water Supply Agreement with or without cause and thereby force a waterless and therefore moribund Alta into the untenable position of relinquishing self-governance by forcing it to annex with another jurisdiction like Sandy City or commit suicide.

The TOA cannot deny water to private property owners expecting and paying for municipal services promised to them at the time of annexation, but supply it to campers, bikers and hikers as proposed in Section 4.98 "camping and picnicking areas." The TOA cannot deny sewer to property owners but propose to increase sanitary facilities for recreational users in the Albion Basin. The TOA cannot use spurious environmental arguments to deny building permits to landowners but then agree to condone and promote development of a large Shrontz Hotel, new "community recreational facilities", an Alta Ski Lifts Company pipeline project, new moderate income housing development, a municipal parking structure, new fire authority personnel buildings or even TOA's own

governmental building projects. This is an Equal Protection Fourteenth Amendment violation of an extraordinary kind.

Nowhere is the Alta General Plan more obviously flawed than with respect to its watershed protection and sewage disposal plans. The 2002 plan revision says specifically "Connection to the sewer system by all existing and future residents is strongly encouraged" (Section 3.1). It sites watershed protection and water quality concerns as the major thrust of its pro-sewer pipe argument. It further asserts that 21 existing family dwellings have only, "sealed underground holding tanks for sewage. These holding tanks present a potential source of contamination, not only from possible leakage into aquifers but also from surface spills," as honeywagons make trips to the Alta municipal sewage dumping station bound for the Cottonwood sewage district. Now the new plan advocates not connecting leaking septic tanks in Albion Basin to the sewer system. This is outrageous. Mayor Levitt and this General Plan violate the state's water quality and watershed protection laws by this policy.

Clearly, if the TOA wants to protect the watershed then they should provide sewer to homes and future developments that have or will have septic tanks. It is an absurd and preposterous thing for the Mayor or other authors of this plan (after stating that connection to the sewer system by all existing and future residences is strongly encouraged) to then declare, "there is no feasible method of extending the public sewer to this area." The sewer was just recently extended to Grizzly Gulch and Alf's restaurant, and ironically the mayor's cabin, his Blackjack View Condominium and his Alta Lodge (hotel, bar and restaurant) all have sewer connections. If Alta Ski lifts (with the TOA consent) just laid a huge water pipe all the way up the guts of Albion Basin then I would think that laying a simple sewer pipe is in fact feasible. And most enlightening of all, is the fact that water already provided under contract from Salt Lake City Water to property owners in Albion Basin, Albion Alps and Cecret Lake subdivisions is more than enough water to carry sewage through those sewer pipes and down to the treatment plant! New waterless toilets, non-flush, self-composting toilets exist that require no water at all to operate, if that were the issue.

The fact is that despite Section 3.1, which states "Alta will support and enforce the policies, regulations and plans of the Salt Lake Valley Health Department", both the Town and the Health Department have failed in their legal duties to enforce the law by allowing the Supreme toilet, the Sunnyside toilet, the Catherine Pass toilet, the Germainia Ski Patrol toilet, and the Forest Service Campground toilets to be constructed and operated without a legal permit. (See attached letter from Salt Lake Valley Health Department). Alta says the Health Department is the one that regulates Alta's human sewage. Unfortunately, the health department has breeched its legal duties by falling asleep at the wheel. It is the Salt Lake Valley Health Department who is the very primary agency responsible for enforcing the watershed protection laws and environmental regulations. This is failure at a catastrophic level and this is the agency that Alta wants to put in charge of decisions for the future?

Notwithstanding the physical ability to do so, the mayor and the TOA have a legal duty

to supply municipal services to the people of the town. I believe that the town council and the planning commission members owe fiduciary duties to act in good faith to establish a plan (in this very document), and at a time certain to provide municipal services to private property landowners and taxpayers. The plan cannot state that it must obey the law and be subject to other governmental jurisdictions and then write (or attempt to write) public policy which not only violates the law, but is poor public policy that damages the watershed, violates vested private property rights and compromises the health and safety of all those who set foot in the TOA.

The statement on page 31 Chapter 3 of the General plan proposal says, "it is strongly recommended that the policy prohibiting future development in areas not served by public sewer be continued." HOW CAN THIS BE??? These statements are not only internally inconsistent but also violate the law. The TOA Resolution No. 83-12 "Resolution Establishing a Service District" (signed by Mayor Levitt and recorded by Katie L. Dixon, Salt Lake County Recorder, February 2, 1984) states, "Whereas Title 11, Chapter 23, U.C.A., 1953, as amended, known as the "Utah Special Service District Act", authorizes the establishment of municipal service districts...and whereas the Alta town council has found and hereby declares that the public health, convenience and necessity require the establishment of a special service district within the town for the purpose of providing sewer services...a municipal service district is established and is known as the Alta Special Service District for the purpose of providing sewer services and other necessary services authorized by the "act" to the hereinafter defined incorporated area of the Town of Alta...that four (4) mill levy to pay for said sewer services be levied annually upon all taxable property within said Alta Special Service District...excluding only the Blackjack subdivision area...said area which is already being provided sewer service from the existing county service area."

The TOA officials have a common law duty and a fiduciary duty under the town bylaws, Utah State Law, the annexation ordinance, the state annexation statutes and the U.S. Constitution. The TOA annexation ordinance specifically states, "any sewer and water improvements required by future development, according to the established policy of the town, are financed wholly from funds of the affected developer or owner." By paying tax revenues to the TOA, we private property owners have paid for sewer and other municipal services not yet provided to us. In addition, State of Utah annexation statutes, in particular Section 417(3) says, "**a municipality shall not annex territories without the ability and intent to benefit the annexed area by rendering municipal services to the annexed area.**" It is more than just an oversight that the plan fails to mention the annexations of the three Salt Lake County approved subdivision of Albion Alps, Cecret Lake and Albion Basin. The plan also fails to mention the legally binding agreements the Town has with these annexed properties and their existing vested development rights.

Even Mr. Wentz, Esq. (Town of Alta lawyer in the Haik v. Town of Alta case (Civil No. 96-C-732J) talking about the TOA's duty to provide municipal services to annexed territories (i.e. Albion Alps Subdivision, Albion Basin Subdivision, Cecret Lake Subdivision) states as an officer of the court, "**the statute says we should provide, as soon as possible after annexation, and the whole legislative scheme, as I read the**

annexation statute, your honor, suggests a problem-solving approach. We look at what we can do, what services can be provided. Some can go now, some might have to come in a few decades later, when the infrastructure is there. That's the way annexation works..." In fact, Utah code, annotated 10-2-401(4) provides that **"areas annexed to municipalities in accordance with appropriate standards should receive the services provided by the annexing municipality, subject to 10-2-424 (electrical utility service) as soon as possible following annexation."** NOTE: Albion Basin properties already have electrical utility service. The fact is, water and sewer lines to Albion Basin are feasible (as feasible as the Albion Basin Pipeline Project into Cecret Lake).

With respect to the "two-prong test", the TOA has the "ability" to provide municipal water and sewer services, but they have restrained themselves from showing any legally required "intent" to do so. I believe it is deliberate and purposeful on the part of the official general plan town drafters to omit any sewer extension plan from this proposal. Sewer is part of any civilized country. It's a major part of what separates us from third world countries. Is Bill Levitt the mayor of a Banana Republic? Sewer lines have been extended to Alf's restaurant and to areas in the Grizzly Gulch in recent times. But for the TOA to profess to care about the watershed, and at the same time, anticipate and encourage large numbers of people to visit Alta, but not provide for sewer human wastes is derelict and completely irresponsible. What's even more overtly contradictory, the General plan calls for more septic tanks to be provided in the Albion Basin, which will, as the plan points out, surely leak into and contaminate the watershed.

"Residential development, whether commercial or private, should not be allowed in areas not adequately served by public water and sewer systems as determined by the Salt Lake City Department of Utilities, Water Division, and the Salt Lake Valley Health Department." It is a fact that the TOA acknowledges "the rights of other agencies and entities to develop and implement plans and policies for areas over which they have jurisdiction." Therefore, the TOA has to follow the Salt Lake Valley Health Department guidelines with respect to septic tanks. And the fact is, the Salt Lake Valley Health Department allows contained septic tanks in the watershed areas of Albion Basin.

Now, legally, the TOA thorough it's counsel, Mr. Wentz, Esq. has admitted in court (Haik v. Town of Alta pg. 25 of the April 25, 1997 proceedings) that building permits will be forthcoming to property owners who comply with all applicable laws. "The Town Administrator, I would say has written 20 letters to owners within the Albion Basin, and he has declared that if we could extend water lines to the Albion Basin and if they complied with other applicable zoning ordinances, yes, they would get a building permit."

What we learn from the Haik case is that Alta can provide culinary water to private property owners within the 1976 town boundary. We also learn that the TOA has plenty of water available under the 1976 supply water agreement with Salt Lake City Water Corporation (to provide water to those 1976 boundary residents or lot owners i.e. Cecret Lake subdivision landowners). We also know that land owners in the Albion Alps

subdivision do not have a cap on the available water provided under the Little Cottonwood Exchange Agreement. We further learn that the TOA should legally provide municipal services as required by statute including water and sewer to those territories annexed to Alta. Through its legal counsel, the TOA represents that it should provide water and sewer when the infrastructure is there. Both elected and appointed town officials keep repeating this false doctrine that there is "no water; therefore this is no sewer; therefore there is no building in the Albion Basin." Well, there's a huge Alta Ski Lifts water pipeline physically running through the center of the Albion Basin and Alta has a right to use 265,000 gallons per day under the contract with Salt Lake City Water, but uses only about half of that amount on average currently (per John Guldner, Town of Alta Administrator, September 2002).

So then one asks the question, what does a property owner have to do to get a building permit? Alta conditions the issuance of building permits in the Albion Basin upon "approval of all uses, regardless of the size or number of units given in writing by the Salt Lake Valley Health Department who shall certify as to the adequacy of the culinary water system and the sewage system. The approval of all culinary water and sewage facilities shall be in accordance with the regulations of the Salt Lake City/County Health Department and the Utah State Division of Health. [Town of Alta Uniform Zoning Ordinance (22-7-8 (2) (1989).] The regulations referred to by the Alta ordinance require both the availability (i.e. physical wet water flow and paper legal water right) of 400 gallons of water per day per housing unit to be constructed (Utah Administration Code R309-105-1 (1.2.6) 1997), and a sealed septic tank which contains all black and gray water as per the Salt Lake Valley Health Department.

How does all this relate to comments on the proposed TOA General Plan? Remember, we just read the TOA Uniform Zoning Ordinance which states that it is the Salt Lake City/County Health Department that has to approve water and sewage in order to obtain a building permit. Now flash forward to the proposed language of the 2005 TOA General Plan: "Residential development, whether commercial or private, should not be allowed in areas not adequately served by public water and sewer systems as determined by the **Salt Lake City Department Utilities, Water Division**, and the Salt Lake Valley Health Department et.al." (Chapter 4, Land Use Policies, Section 4.2 Residential Development and Chapter 3, Section 3.1))

If you are not yet outraged, you should be. Unbelievably the TOA, including its conflict-of-interest-laden planning commission, has nefariously added Salt Lake City Department of Utilities to the list of agencies that exercise power, authority and control over the TOA and the private property rights of its citizens. Mayor Levitt is attempting to give the Town away. Outsourcing the decision-making to other outside agencies beyond what is already determined by law is simply over the top. Levitt should resign. He has a cancer growing on him. His judgment is flawed and his ability to lead has come and gone.

This proposed change is inconsistent with TOA Uniform Zoning Ordinance 22-7-8(2)(1989) which itself is inconsistent with Section 4.2 of the 1992 General Plan because neither public water nor public sewer are requirements of either the Salt Lake

Valley Health Department or the State Health Department of Utah which is also inconsistent in its FR-1 zoning of Albion Basin properties which were approved and drafted by Salt Lake County and whose August 4, 1975 Zoning Ordinance allows 1 single family dwelling per subdivided lot. Any argument advanced by the mayor or any other TOA official that "amending the 1992 plan by adding in Salt Lake City Corporation is necessary for the purpose of acknowledging the jurisdictional rights of other governmental agencies or entities" is a sham argument. Simply stated we already have that acknowledgement language in the plan. Salt Lake City already has its own declarations of policy aimed at protecting its watershed. (See November 1999 Salt Lake City Watershed Management Plan). This granting of power to Salt Lake City over property development rights by the TOA through the mechanism of public policy declaration in this General Plan is the crown jewel of deceit. As the centerpiece of the 2005 changes, it both encapsulates the overreach of government and frankly undermines the credibility of the people who run the local government at both the TOA level and at Salt Lake City.

Unbelievably, the TOA has no water of its own, is currently not seeking water of its own in any form (i.e. reservoirs, the purchase of land upon which physical water sources are located, and the appurtenant legal water rights to put any water thus procured to beneficial use, etc.), was denied water by Salt Lake City Corporation when Mayor Levitt asked for it, has not asked Salt Lake City to strike the termination clause which could cut off water to the TOA and now surprisingly, the TOA wants to give Salt Lake City Corporation more power over its own rights and the rights of property owners to exist and self-govern? This is outrageous! The Town could simply exercise its powers of eminent domain against Salt Lake City and take the water.

Finally, let's get down to the business of the watershed argument. Salt Lake City Corporation especially the Department of Public Utilities, the TOA, the Friends of Alta and others have tried to use watershed protection for just about every cause imaginable especially anti-development strategies. For the purposes of watershed considerations, there is no difference between water originating in the Albion Basin, Sugarplum or Grizzly Gulch. It is all mixed together when it gets to the treatment plant for the Salt Lake Valley end user. Further, Salt Lake City in all of its water exchange agreements with water users in the TOA makes no representations guaranteeing the quality of the raw untreated water they sell. What's more, these same entities (SLC, TOA, et al.), encourage the continued and increased use of the watershed despite the degradations by those users on the watershed. It is an uncontroverted fact that Little Cottonwood Canyon is highly developed and highly used. If development were a problem for the watershed, then the two could not co-exist. The fact is that if watershed was truly an issue, Salt Lake City and the TOA would have to oppose any Snowbird expansion, Alta Ski Lift expansion, outlaw all natural erosion, kill all the animals, tear down all the houses and buildings in Alta and tell people to keep out of the canyons. The contradiction here is profound. Acting as cohorts, the TOA and Salt Lake City oppose the construction of cabins in Albion Basin for watershed and water quality reasons, yet,

- 1) They continue to allow dogs to defecate in the watershed by both allowing dogs into the watershed by permit and by not enforcing existing ordinances against free roaming dogs in the TOA.
- 2) They continue to encourage watershed use by tourism, recreation, ski resort expansions, etc.
- 3) They continue to prevent the construction of adequate watershed-protecting sewer infrastructure to handle the increase in human wastes
- 4) They continue to allow animals to live in the watershed (moose, deer, rodents, elk, beaver, etc.) in spite of their contamination of the watershed with giardia, e-coli, cryptosporidium and other toxic coliform bacteria, viruses and prions.
- 5) They continue to allow hikers, campers, bikers, etc., to deposit unsewered human wastes in the watershed by not enforcing their own scatological policies and ordinances
- 6) They continue to promote attitudes that somehow development outside of Albion Basin is OK but that Albion Basin itself generates a special kind of water that doesn't need disinfection.
- 7) They continue to allow development projects of their own choosing in the Albion Basin, but cite environmental concerns about the watershed when someone else tries to do what they just did.
- 8) They continue to claim that unsewered human wastes are a key factor in the degradation of the watershed but then fail to implement adequate sewer plans to contain all human wastes.
- 9) They continue to say mining is a bad thing, but then use mine tunnels as storage facilities and water sources (i.e. "antimony is good if it's in the only water we've got").

The ability and right to develop private property in Little Cottonwood Canyon (including Albion Basin) is an undisputed fact subject to applicable laws and ordinances. The Alta General Plan should explicitly state this fact and candidly represent all land users rights.

Salt Lake City Corporation by its Director of Public Utilities, Leroy W. Hooten, Jr. in a letter dated March 11, 1988 to Mayor William H. Levitt specifically and unequivocally states, "We recognize that there are existing authorized uses of private property in the Albion Basin which are only cabins with intermittent use. We feel that any further expansion beyond this limited existing use, especially commercial development, would adversely affect water quality in Little Cottonwood Canyon and would not be consistent with Salt Lake City's watershed management plan."

Lawfully constructed and operated cabins therefore do not adversely impact the watershed. Mr. Hooten also in this letter cites the Salt Lake City water management plan as saying, "Little Cottonwood Canyon has the best water quality of all the Wasatch Mountain Canyons used for Salt Lake City water supply. The excellent water quality is maintained despite heavy and increasing recreational use." Now, mind you, this excellent water quality exists in spite of all of the animals and humans depositing unsewered wastes directly into the watershed itself, in spite of all the septic tanks that

purportedly leak in the Albion Basin, in spite of the natural erosion of Devil's Castle and other canyon slopes (not to mention the erosion which building permits contribute to), in spite of the existence of mines, mine tunnels, dirt roads going to the mines and the fact that water we drink comes straight out of those mines.

SECTION 3.2-WETLANDS

The General Plan says, "the Town will enforce strict compliance with all Federal laws pertaining to wetlands", but yet in Section 4.12-Mining, the plan fails to be so assertive of the same strict compliance with all Federal mining laws including rights to take timber of sufficient quantities necessary for mining. In contradiction to the Federal mining laws, Alta claims in Section 2.3-Development Philosophy, that as a matter of policy "removal of trees is generally not allowed."

SECTION 3.6-VEGETATION

This section also contradicts rights established under the Federal mining laws as they relate to surface disturbance and tree removal.

The definition of wetlands needs to conform to legally recognized standards. The addition of "riparian areas" (inter-mixed with the wetland definition in the plan) mischaracterizes the very narrow definition of what riparian areas are. Under federal regulations, riparian areas are not afforded the same protection as wetlands.

SECTIONS 3.3 AND 3.7-VISUAL QUALITY

The General Plan statement that visibility of structures, "has to be primarily, although not solely, assessed from the road...No development should interfere with views of major natural features. No development should block or otherwise interfere with the views from existing structures" is subjective, nebulous and an unduly burdensome standard to impose. Any blanket statement of viewshed protection without strictly identifying which views and from which surveyed points of view it cannot be impeded from would be required to even begin to define a policy on the topic.

The Planning Commission, with all of its conflicts of interest, cannot possibly be given the wide spectrum of discretion to make decisions opposing development that this plan affords it.

SECTION 3.9-PRIVATE LAND ACQUISITION

Eminent domain takings of private property would have to comply with strict legal standards—standards which the Town of Alta would be hard pressed to meet (i.e. Is Alta going to condemn private property in order to build a highway to and through Albion Basin—a sort of interconnect to other ski resorts?) Alta would surely fail in any condemnation action. Furthermore, the Town has a legal duty to supply water to Cecret Lake landowners under the 1976 Water Agreement with salt Lake City. Alta could not

afford to pay the tens of millions of dollars required to pay fair market value for developable land with water.

The subtle intended consequence by the Planning Commission to endorse private land acquisition in Albion Basin is so that any development proposal will be seen as contrary to this Alta policy and therefore, will never qualify for Planning Commission approval. The problem is that the Alta Planning Commission is mired in conflicts of interest and is therefore totally compromised.

SECTION 3.11-PUBLIC SAFETY

What is missing from this Section is any talk of complying with the safety standards of the Unified Fire Authority with respect to providing adequate waterflow under legally required pipeline pressure to fight fires. Not only is a plan for development of water infrastructure required in this planning document, but pipeline loop systems must be implemented in order to prevent complete shut down of the Town's water system and hence, firefighting capability where a main water line has inadvertently been cut or severed.

ALTA'S CONFLICTS OF INTEREST

Conflicts of interest are serious matters. By Utah Statue 67-16-9 conflicts of interest are prohibited: "No public officer or public employee shall have personal investments in any business entity which will create a substantial conflict between his private interests and his public duties." UCA 10-3-1310 and 67- 16-12 provide for penalties for violation - dismissal from employment or removal from office for "knowingly and intentionally" violating this law and "shall be dismissed from employment or removed from office and is guilty of: (1) a felony of the second degree if the total value of the compensation, conflict of interest, or assistance exceeds \$1000; (2) a felony of the third degree if: a) the total value of the compensation, conflict of interest or assistance is more than \$250 but not more than \$1000..." Furthermore, Utah Code Annotated 75-5-422 involving the sale, encumbrance or transaction involving conflict of interest states, "Any sale or encumbrance to a conservator, his spouse, agent, attorney, or any corporation or trust in which he has a substantial beneficial interest, or any transaction which is affected by a substantial conflict of interest, is voidable unless the transaction is approved by the court..."

Mayor Levitt's conflicts are substantial and illegal. They not only involve him personally benefiting from his office, but also reveal his improper actions in specifically appointing people to positions with substantial conflicts of interest. The impropriety arises from the influence of these people with conflicts of interest on the business activities of the Town.

Bill Levitt's scheme goes beyond just dirty politics. He has constructed a network of conflicts that compromise the whole Town of Alta. Mayor Levitt owns the Alta Lodge (bar, hotel, convention center). He has used his office to protect and enhance his own financial interests. Many of the policies contained in the General Plan will function to

crush commercial competition against him and thwart competing business interests by severely limiting the number of beds available in the Town.

Instead of conducting business with the highest standards of ethics, honesty and integrity, he has helped to create and encourage both the appearance of impropriety and frank impropriety. Bill Levitt is on the Advisory Board of the "Friends of Alta" a non-profit 501C3 corporation, which started as a legal defense slush fund. Patrick Shea, Esq., a lawyer for the Town of Alta, as well as for the Friends of Alta, has used this corporation to achieve a financing mechanism for the Mayor himself and for Alta projects that serve the Mayor's interests and other businesses that support Levitt's policies. Pat Shea, Esq. is the point man along with Mayor Levitt's wife, Mimi (as the Chairperson of the Friends of Alta) to acquire Albion Basin private properties. It should come as no surprise that the Friends of Alta have agreements and understandings with the US Forest service, Salt Lake City Public Utilities Water Department, the Utah Reclamation Mitigation Commission and others to cooperate in a unified Albion Basin Land Acquisition Policy.

It is no coincidence that the General Plan embraces a town public policy of acquiring private lands funded by the Friends of Alta, Salt Lake City Corporation, the Utah Reclamation Commission (URMCC) and Forest Service. The Town of Alta, through this General Plan even threatens to condemn the properties and then rezone them to become trading cards for the Town of Alta to achieve their own development plans of a new townsite with buildings, parking structures, employee housing and the like.

Now back to Levitt. The Mayor has carefully planned his conflicts of interest. The Friends of Alta keep him bank-rolled. He appoints or hires attorneys that are cross-over agents for both the Town of Alta and the Friends of Alta (Pat Shea, Esq. is a lawyer for the Town and the Friends of Alta; Lee Kapaloski, Esq. is a lawyer for the Town of Alta and the Friends of Alta.) Lee Kapaloski, Esq. is also appointed by Levitt to be the Chairman of the Alta Planning Commission and the Board of Adjustments. In a Friends of Alta document dated April 2002 (enclosed), Mimi Levitt claims to have, "interviewed and found an excellent person, Laura McIndoe" to work for the Friends of Alta on "our ongoing programs." The problem here is that Mayor Levitt also has Laura McIndoe on the Town payroll as the Assistant Town Administrator. As a public employee, she uses her office to conduct and coordinate many of the business activities of the Town of Alta and the Friends of Alta. This is illegal both civilly and criminally. Salt Lake County Mayor Nancy Workman's problems were small compared to this. Keep reading; it gets worse.

Mayor Levitt then violates Utah's Anti-Nepotism statutes by hiring his son-in-law, Marcus Dippo (married to Cassie Levitt Dippo) to be the accountant and Chief Financial Officer for the Town.

Mimi Levitt claims that the Friends of Alta are, "going to try a new approach to the Albion Basin landowners by hiring a nationally known lawfirm with expertise in real estate transactions to pursue our objective - making Albion Basin into a conservation

area. This is still our #1 commitment.” Mimi Levitt then goes on to say that the Friends of Alta are cooperating with the Alta Planning Commission on the General Plan revision.

The importance of this is that Bill Levitt has stacked the Alta Planning Commission with people mired in conflicts of interest. Joan DiGiorgio used to work with the US Forest Service, Bear West Consulting and the Utah Reclamation Mitigation Conservation Commission (as a land acquisition expert and environmental policy strategist). **The Reclamation Commission has pledged that it has unlimited resources to buy up private property in Albion Basin.** The fact that the Utah Reclamation Mitigation Conservation Commission has a formal relationship with the US Forest Service demands her recusal. The URMCC is funding the USFS to acquire lands in Albion Basin. The fact that the General Plan actually advocates and specifically lays out plans to rezone Albion Basin lands once they are acquired and then to use them for other Town of Alta objectives like townsite buildings and parking structure requires not only Joan DiGiorgio’s recusal as a Planning Commission Member, but also warrants an appropriate law enforcement action against her and the Mayor. She can neither endorse nor vote on this plan.

Mr. Kapaloski is on the Planning Commission, is an Alta Town Water Lawyer, a Friends of Alta Lawyer working closely with Pat Shea, Laura McIndoe, Mimi Levitt and Bill Levitt and is or has been the water lawyer for Sandy City, Salt Lake City, the Salt Lake Metropolitan Water District, Service area #3, the Jordanelle Water Conservancy District, the Jordanelle Special Service District and the Weber Basin Water Conservancy District just to name a few.

W. Paul Thompson, Esq. is currently the Town of Alta’s lawyer and used to sit on the City-County Health Department Board and used to be the Mayor of Sandy City. These are the people helping to give more Alta planning control to Sandy City, Salt Lake City, the Salt Lake Metropolitan Water District, the U.S. Forest Service and the Salt Lake Valley Health Department.

In order to avoid the appearance of impropriety, the Mayor and his appointees must be free of actual, apparent, or potential conflicts of interest. Edwin E. Blaney, a member of the Alta Planning Commission, also sits on the Salt Lake County Council of Governments which is an association of local governments in Salt Lake County, Utah. What’s really interesting here is that Mayor Levitt is the Chairman of the Salt Lake County Council of Governments (“COG”) and COG is involved in water and land development activities (among others like Albion Basin acquisition) related to the “Central Utah Project.” COG has an interest in the Central Utah Project which makes it possible for Salt Lake City Corporation to share its Deercreek water resources with other valley communities. Mr. Kapaloski represents many of these water asset interests, including the Jordanelle Water District, which could provide water to Alta via water exchange agreements.

Mr. Blaney also cooperates with the Utah Reclamation Mitigation Conservation Commission’s Ms. Joan DiGiorgio to provide funding for land acquisition in the Albion

Basin. These people are all in bed with each other. This is not only ethically reprehensible, but it is illegal.

In a document (enclosed) dated August 26, 1988 from Leroy W. Hooton, Jr. (from the Salt Lake City Corporation Water Department) Mr. Hooton discusses the dissolution of the Little Cottonwood Water Company which previously provided water to Albion Basin properties.

Significantly, Mr. Kapaloski worked with Salt Lake City on taking over the Little Cottonwood Water Company's Board of Directors, then dissolving the Company. Mr. Hooton further states that in September 1988 "Mayor Levitt requests that COG recommend that the private lands in Albion Basin be purchased for watershed protection," and on September 15, 1988, "Also, state to the metropolitan Water District of Salt Lake City that as a condition for Alta to annex into metropolitan district, that they not serve water to the Albion Basin..." (see attached briefing memorandum from Leroy Hooton, Jr. to Mayor Palmer A. DePaulis).

Now Mr. Kapaloski is in a funny position here. He is a lawyer for the Metropolitan Water District, he helped dissolve the Little Cottonwood Water Company to stop development in Albion Basin, he sits on the Alta Planning Commission, he represents the Friends of Alta in their goal to stop development in Albion Basin and he is a town of Alta lawyer (amongst a myriad of other conflicts of interest), Mr. Kapaloski has a fiduciary duty to act affirmatively to protect and advance the interests of his clients, both the Friends of Alta and the Town of Alta. Hypothetically, if the Friends of Alta's objectives were adverse to the Town of Alta's, then Mr. Kapaloski would be in a conflict of interest position just with respect to the Friends of Alta and the Town of Alta. The Rules of Professional Conduct prohibit him from undertaking legal representations that involve conflicts of interest amongst clients. But if Mr. Kapaloski also gives legal advice to the Planning Commission, which he does, he is in a conflict of interest position in terms of his public duty responsibilities as a commissioner because those duties are compromised by his other fiduciary duties to the Town of Alta and the Friends of Alta as their lawyer. As a Planning Commissioner, if Mr. Kapaloski were to favor development or even approve a building permit (obviously contrary to the objectives of his other clients), he could be sued by them for breach of fiduciary duty and legal malpractice.

Further, Mr. Kapaloski is a lawyer and an officer of the court and is therefore bound to abide by and uphold the law, including the U.S. Constitution, the Utah Constitution, as well as state and local laws – in fact as an Officer of the Court, Mr. Kapaloski couldn't even advise people to break the law (even if they could financial gain from breaking the law).

And yet, Mr. Kapaloski is recommending courses of action in the General Plan document that are flatly against the law, namely: 1) not providing municipal services to the Cecret Lake subdivision of the Albion Basin (Note: Mr. Kapaloski is recommending the denial of water and sewer services) 2) He is advocating the deterioration of the watershed in violation of the Salt Lake City watershed management plan by recommending no sewer

line be extended to Albion Basin leaking septic tanks all the while encouraging more visitors and seeing more recreational use in Albion Basin. 3) He, as a Planning Commissioner, and a Town of Alta lawyer, and as a water lawyer knows that the Cecret Lake/Salt Lake City water pipeline (i.e. the Snowskin??? Pipeline) does not have a legally approved point of diversion and therefore is operating against the law and is doing nothing about it. The problem is if Mr. Kapaloski were to obey the law (i.e. annexation statutes, watershed laws, Health Department ordinances, state law, state constitution and the U.S. Constitution), he would have to vote against this General Plan.

Mr. Kapaloski is attempting to use his power on the Planning Commission to carry out his other clients' objectives. To the extent he is successful for his other clients in his work on the Planning Commission, Mr. Kapaloski stands to gain financially by generating ongoing legal fees as counsel for both the Friends of Alta and the Town of Alta. Mr. Kapaloski is as guilty of breaking the law as is Mayor Levitt for appointing and sustaining him.

To make matters even worse, Mayor Levitt has appointed Allan H. Branch (Skip Branch) to the Alta Planning Commission. Mr. Branch is a trustee for the Friends of Alta (along with Pat Shea's wife Deborah) and not lastly, Kate Black, the Town Clerk and Records keeper who coordinates the Town's budget along with the Mayor's son-in-law, Marc Dippo, is also one of the original trustees for the Friends of Alta. (Incidentally, Kate Black used to work for Salt Lake City Corporation prior to working for Alta).

It is indeed no coincidence that the Mayor and "all of his men" are entangled in a complex web of conflicts of interest. The time has come for the Attorney General's office and the US Attorney's office to get involved in the law enforcement arm of this problem. Beyond the conflicts of interest statutes, I believe we have the basis for a "RICO" action against these people. (The Racketeer Influenced and Corrupt Organization Act)

These comments represent only a small portion of what is wrong with this General Plan proposal. It is radically different from the 1992 plan and needs to undergo considerable rethinking and reworking to get it in a form that is even approaching a document ready for comment and approval. It is internally inconsistent, contradictory with existing laws, lacking in policy stating specific time tables as to when Alta plans on providing municipal services to annexed territories. It ignores many real watershed protections while making false claims about development's true impact on water quality. It attempts to be the epitome of governmental overreach and the restraint of private property rights.

I recommend that this plan proposal be tabled and put on hold indefinitely until which time as reasonable people, educated about the law and public policy can sit down and create a document that is honest in its intent and accurate in its language, promotes the safety and welfare of its citizens and protects the long term vision of the Town of Alta.



Salt Lake Valley Health Department

Division of Administrative Services

Suzanne Kirkham, M.P.A. - Interim Executive Director

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February 22, 2005

Kevin Tolton, M.D.
1454 Skyline Drive
Bountiful, Utah 84010

Dear Mr. Tolton:

This letter follows the decision of the Records Appeal Board dated January 27, 2005. The decision followed the records appeal hearing on January 26, 2005. The hearing was based on your November 19, 2004, letter requesting information related to septic systems in the Town of Alta. The Records Appeal Board's Finding #1 required you to be more specific in the time period defined for each of your requests. The Board instructed the Health Department to respond to your requests after you specified the applicable time periods. In a letter addressed to Rod Dahlgren dated February 12, 2005, you confined your requests to a fifteen year time period. Based on the Records Appeal Board's decision and your subsequent response limiting the time period, the Health Department hereby responds to your November 19, 2004, letter.

RESPONSE TO REQUEST

Salt Lake County has adopted a records management procedure contained in Chapter 2.82 of the Salt Lake County Code of Ordinances. Section 2.82.140 deals with the archiving of records. Correspondence is retained for two years or until no longer needed for reference and then destroyed. Subject to the foregoing, the Bureau of Water Quality and Hazardous Waste has identified the following records which may be relevant to your requests.

Request #1: All requests from the Town of Alta to the Salt Lake Valley Health Department (including Salt Lake City/County Health) for permits for construction of contained septic systems.

Response: On-site wastewater system records are in folders for each property address that has such a system. The files are grouped by subdivision or address. The Health Department has redacted personal information such as telephone numbers, residential addresses, social

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security numbers, and complaint information, if any, pursuant to Utah Code Ann. §63-2-302(2)(d); and §63-2-304(9). The records are available for your inspection upon appointment.

Request #2: Any permits for contained septic systems in the town of Alta issued by Salt Lake Valley Health and Salt Lake City/County Health Department.

Response: All requests for the approval of plans and system inspections are in the same files referenced in response #1. The records are available for your inspection upon appointment.

Request #3: Any and all correspondence regarding any permit issued for the construction of the improvements assessed by Salt Lake County under parcel #30093000012001, sometimes referred to as the Germainia Ski Patrol Shack.

Response: The Bureau of Water Quality and Hazardous Waste found no files concerning Alta Ski Lifts under this parcel number or the name "Germania Ski Patrol Shack." The Health Department does have a file concerning the Alta Ski Lift maintenance shop that is available for review subject to the redaction of personal information and complainants' names, if any. In addition, the Bureau has a letter dated June 1, 2004, addressed to Tom Whipple regarding two composting toilets that Alta installed without the Bureau's knowledge. The records are available for your inspection upon appointment. General correspondence related to the Alta Ski Lifts may be found in other files produced in responses #1 and #2 to this request.

Request #4: Any and all permits issued by Salt Lake Valley Health for the composting toilet located in the ski patrol dispatch at the top of Germania on Salt Lake County parcel #30093000012001.

Response: The Bureau has found no permits issued for a composting toilet located in the ski patrol dispatch at the top of Germania. The Bureau of Water Quality and Hazardous Waste sent a letter dated June 1, 2004, addressed to Tom Whipple regarding the use of composting toilets. An inspection was subsequently conducted. The Town of Alta has made application to the Utah Division of Water Quality for the approval of composting toilets. This file will be made available for review subject to the redaction of personal information and complainants' names, if any. The records are available for your inspection upon appointment.

Request #5: Any permit issued for the waterless urinals located in Alf's restaurant (aka Alpenglöw).

Response: The Bureau of Water Quality and Hazardous Waste has found no permits issued with respect to any waterless urinals located in Alf's restaurant aka Alpenglöw. Permits from the Health Department are not required for plumbing fixtures.

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Request #6: Any permits issued to the United States Department of Agriculture and/or the U.S. Forest Service for construction of contained septic systems within the Town of Alta.

Response: The Bureau has found no permits issued to the U.S. Department of Agriculture or the U. S. Forest Service for the construction of contained septic systems in the Town of Alta. The Bureau's files concerning Little Cottonwood Canyon includes one file involving a septic tank for the Forest Service's Brighton-Alta Ranger Station. This file will be made available for review upon appointment subject to the redaction of personal information and complainants' names, if any.

Request #7: Any joint Alta Ski Lifts-U.S. Forest Service permits for toilets and contained septic systems.

Response: The Bureau has found no permits jointly issued to Alta Ski Lifts and the U.S. Forest Service for toilets and contained septic systems.

Request #8: Any permit issued by Salt Lake Valley Health for the toilet constructed by Alta Ski Lift Company at the bottom of the Supreme ski lift.

Response: The Bureau has found no permits for a toilet constructed by the Alta Ski Lift Company at the bottom of the Supreme ski lift.

Request #9: Any permit issued by Salt Lake Valley Health for the recently constructed toilets at the top of Sunnyside lift located by the parking lot for the Catherine's Pass trailhead in the Town of Alta.

Response: The Bureau has found no permits for toilets at the top of the Sunnyside lift located by the parking lot for the Catherine's Pass trailhead in the Town of Alta.

Request #10: Any permits for contained septic tanks or systems in the Cecret Lake subdivision, the Albion Alps subdivision and the Albion Basin subdivision located currently within the Town of Alta.

Response: On-site wastewater system records are in folders for each property address that has such a system. The files are grouped by subdivision or address. The Health Department has redacted personal information such as telephone numbers, residential addresses, social security numbers, and complaint information, if any, pursuant to Utah Code Ann. §63-2-302(2)(d); and §63-2-304(9). The records are available for your inspection upon appointment.

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Please contact Garth Miner, 313-6696, at the Bureau of Water Quality and Hazardous Waste to schedule a mutually convenient time to review the documents. Once you have reviewed the files and identified the documents to be copied, you will be charged 25 cents per page.

NOTICE OF OTHER AGENCY RECORDS

The Utah Department of Environmental Quality, Division of Water Quality, also regulates on-site wastewater systems. The Division of Water Quality may have other information relevant to your requests. The Division of Drinking Water Quality is located at 288 North 1460 West, Salt Lake City, Utah 84115, telephone (801) 538-6146.

Sincerely,



Suzanne Kirkham
Interim Executive Director

cc: Rod Dahlgren
Terry Ellis
Gavin Anderson
Royal DeLegge
Brian Bennion

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FILE

M I N U T E S

Meeting held in the Public Utilities Conference Room on November 30, 1989 at 12:30 regarding Albion Basin.

Those in attendance:

Mayor Levitt (Alta City)
Mr. John Goldner (Alta City)
Mr. Denny Earhart (Bearwest)
Mr. Michael Sieg (Forest Service)
Ms. Emily Charles (Salt Lake City Mayor's Office)
Mr. E.T. Doxey (Salt Lake City Public Utilities)

Tim began the meeting commenting that recently we had been informed by a Board Member that there may be some Forest Service money available for land acquisition and thought we should get together and talk about Albion Basin and whether the program is viable or if it just a good, fantastic rumor with a lot of words but no end results. Thought we could talk a little about the \$20,000.00 dollars that Public Utilities has for property in Albion Basin that we could identify as high priority property and then prioritize the other properties up there.

Denny wanted to know of the funds that were committed this year, how soon does it have to be expended. Tim said that \$20,000.00 was a starting fund and we have it in this years budget and could probably carry it over into next years budget, whether they would appropriate another \$20,000.00 for the next year we would have to look at it at that time. Denny said he wondered about it because we will not hear on the match for that from the State Land and Water Conservation monies until probably late January. The State is still waiting to hear on what they will receive.

Mayor Levitt remarked that he saw a much more complex problem, every time we get to where we can do something then we come back to the idea that we cannot spend the money because the appraisal says the land is not worth anything. Nobody up there is going to deal with us on that basis so how do we get around this particular problem, he thinks the appraisal was about a discouraging thing as what he had seen, we had one parcel worth about \$20,000.00 and the parcel right next to it was worth \$900.00. He can not find any rational to that, he supposes there is one. But, if we want to talk about priority areas then we have some, I have a proposal on how we could deal with it using that fund so that we don't have to carry it over because talking with the Lift Co. and the Friends of Alta there are 3 critical parcels that we don't want Mr. Plum to buy from Melville. The Lift Company paid Melville a substantial price to get the land to start with because Melville, who is a fairly decent guy, did not want to see it put into a kind of thing where we would be in court where we have all the other garbage that goes with kind of thing that Plum has been doing in the canyon up until now. So

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the Lift Company has bought a lot of that land, (did not know if we knew about their most recent purchase). Tim said we did know that they had purchased some but did not know what parcels of land they were. Mayor Levitt asked if we got the information from Onno, we indicated that we did. Onno told Mayor Levitt he had found out about some other parcels and he approached the Mayor and asked if they could get together with the Lift Company, the Friends of Alta, the City or any one else and each of us contribute to it and pick that other land up and get it out of the threat to the whole area by acquiring it. He checked with him yesterday and the Friends of Alta and they still are ready to go on this, he is worried that the City will say they can not do it because the appraisal says it is not worth anything. Tim said that this was something that would have to be discussed with the our Mayor and City Council. Mayor Levitt suggested maybe if we could have matching funds or if say: Friends of Alta puts up \$20,000, Lift Company put up \$20,000, the City puts up \$20,000 and Forest Service if have any or where ever else we can start out with \$60,000 so we can move immediately before the end of the year and we would not be in jeopardy of loosing the money or having someone else hold us up after they purchased it.

Denny explained that the appraisals were not to establish a price but was to help establish a context for negotiations with individual property owners. If we had an appraisal that reflected a more realistic value of the vacant parcels, a value perhaps that is different from the perception that the individual owner would have, it might be helpful in negotiation with those individuals. He didn't think that the purpose of the appraisals was to say "this is the price".

Mayor Levitt said that the problem is that the City can not pay more than what the appraisal says it is worth. So since we have the appraisal we are stymied. These people have paid \$10,000.00 or more for their building site and we cannot come up and tell them "Be a good guy and don't ripe us off" and pay \$849.00 for it. The Lift Company has indicated that they are willing to work with us to transfer that land into public hands so that it will not be used for development if we can give a value sufficient that they could take as a tax right off. But, they are not going to do that for \$900.00 per building site.

Denny supplied a map of Albion Basin and pointed out that the lot the Lift Company acquired from Melville along with the 22 acres (.008) Russ Harmon said he cannot give an exact figure that they paid for it, but it was in the \$20,000.00 range. Tim wanted to know if that was the lot that Melville had water with through Little Cottonwood Wood Company. Mayor Levitt said he didn't think he had any water rights. Denny had information that they also wanted to purchase property in the campground vicinity so they are interested in acquiring the Couchman and Hannum lots or have someone else acquire them in public ownership. Wanted to make sure we know that the Mitchell property is a possibility, while she personally would be interested in donating a portion of

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the value she did not know if she could do that to her son. But she is certainly someone to visit with (still lives in California). It is Plums intent to make the northern part of the lots a subdivision.

Mayor Levitt said we would like to acquire some of this land and work out a program by where the land would be partially donated and eventually acquired by the Forest Service with certain assurances that they would not sell it off in the future and let someone develop it. What we would like to be able to do is to clean up some of the areas in Alta, that the Friends of Alta would like to have donated first to the town of Alta the Town of Alta would then swap that with the Forest Service (The Fire Station and the Town Building are on Forest Service Land)

Were told by Mike Sieg that the Forest Service doesn't own the land it is National Forest Land.

Tim asked that with all the discussion, if we should get a master map of the area. Mike said they occasionally get calls from people who would like to exchange their lots for other cabin lots.

Mayor Levitt read part of a letter he received from Ron Busher Associates in Sudberry, Mass. "I own property in Albion Basin, the land is for sale at the price of \$40,000.00 the land includes a water tank, water rights and shares in the Secret Lake Water Company". There is no such thing as Secret Lake Water Company. "The water tank is adjacent to Drapers Cabin." Charlie Wilson work out with the Secret Lake people that they could have a 30,000 gallon reservoir up there this would be fed into each one of the lots. So this lot is with water rights. The guy will probably come down but not to \$900.00. There is no building rights.

What we are trying to determine today is a way and a method eventually purchase property in Albion Basin and retain it for our purposes without the court hanging over our head.

The question of how to monitor the water without meters. They need some meters to start keeping track.

Tim indicated that the purpose of this meeting was to find out if there was any money available from the Forest Service and how we go about it.

Mike briefed us on the \$30,000 year for land acquisition here on the Wasatch-Cache primarily the Salt Lake District, in addition to that a few years ago or last year we got through the appropriations some money to by land in Red Butte Canyon. After that the people decided they did not want to sell it. We are sitting there with the money we could not spend because it was specifically for Red Butte Canyon. They have been looking on getting some language for spending it on something else in the

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vicinity (did not think it would happen this year). Thought what we were specifically referring to is the recent Forest Service Appropriation Bill that has passed, Congressman Wayne Owens had \$70,000 Million Dollars added to the Nation Forest Service budget, with no specific language in there but he said he would like to see some interest given to the National Forest in Utah, specifically in the Wasatch-Cache area, but there is not specific use for that money but it was added to the Wildlife, Fisheries, Range and Recreation Programs they get there dollars appropriated functionally. The one thing that is unfortunate that for them to buy land it has to come in a specific land acquisition appropriation and there was no money put into that. They are not getting a big pot of money to go out and buy land. What can be done is take some money and use the reprogramming authority, they can not reprogram money from Wildlife into Land Acquisition but could program some money to facilitate the land exchange such as appraisals, pre-work for the exchange etc. The question was asked if the money could be used to obtain land to expand a campground to protect it for recreational use or protecting the wildlife in the Basin. They can not take the money that was allocated for the Wildlife and Recreation and buy land it has to come through specific appropriation. While there is an intent for money but it did not come in the ways for going out and buying land with it.

Denny indicated that Kennly had said that money can be available for acquisition in Albion Basin for Olympic Planning and other local needs. Mike said that it can not be done at this level. The only thing that can be done is to reprogram for the administrative cost of making an acquisition, or preparation of exchanges.

Emily wanted to know if there was something that we could do to help facilitate that and get an answer.

Denny said he understood that \$4 Million of the \$70 Million will come to Utah and about 60 percent of that to the Wasatch-Cache, the question is, can the Wasatch-Cache use it for acquisition of land. He also indicated that Kennly seemed to believe that some people in headquarters that would be sympathetic if there was a strong communication from the region to headquarters seeking a reprogramming of existing monies or the new money for some of these other purposes that headquarters could reprogram.

Tim wanted to know what kind of lobbying it would take to work with water agencies and the Forest Service or Congressional people to do something to have this considered?

Mike suggested that we wait until the information filters down to the Forest Service. He felt that maybe we should ask Congressman Owens if some of that money was going into land acquisitions or can it.

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Denny said it sounded like there may need to be some help in Ogden as far as the folks there seeing this as a priority.

Mayor Levitt indicated that maybe the mix of the Lift Company, the support group, the City, County etc. so that it does not seem like the Forest Service is land grabbing.

Tim said that one way to help tie up some of this land is to try and retain a permanent watershed or Forest Service easement across the top of it that way the underlying contribution to who ever it is could be \$20,000 or what ever.

Denny reminded us that the Natures Conservancy was very interested in participating in any kind of arrangement like that to be as much help as possible.

It was decided what should be the first couple of steps:

1. Emily to set up a meeting with someone from Congressman Owens office to see what they would recommend that we do.
2. Emily and Denny to set up a meeting with the Ogden office with the Region Director and have them give us their suggestions.
3. Instead of pooling the money, prioritizing which lots need to be purchased first and if Alta, Friends of Alta, Alta Lift Company had money they were willing to devote could put it into one lot instead of combining. The three lots that Melville still had that Plum was looking at, feel that is the first place they would want to go because that is the most threatening.
4. Maybe with the recent sell we should get a new appraisal.
5. Tim asked Mayor Levitt with Denny to contact the Ski Lift Company about the other ski lift lots that had been talked about before and maybe its time we should take to those people and see if they would like to sell us a permanent easement across there for watershed purposes or sell it to us and retain an easement for ski purposes and see if we can arrive at a figure on the other lots up there. (About 11 lots) and (9 just obtained). Would give them some money to negotiate for the other Melville Lots. Or give them the easement and they could donate it for the tax advantage. Also, we could get them to donate the land to Alta, and Salt Lake City could buy and easement from Alta City and Alta City could pay it back to them. There is at least three parcels of land that we could get action on now.
6. Tim to work on getting meters put in to monitor the water users already in the Basin.

Mayor Levitt will be out of town from 15th through the 19th, he will be available for meetings before of after that. 3/10/47 JS



United States Department of the Interior

BUREAU OF RECLAMATION

Upper Colorado Regional Office
125 South State Street, Room 6107
Salt Lake City, Utah 84138-1102

COPY

IN REPLY REFER TO:

UC-535
PER 17.10

JUN 25 1998

MITIGATION COMMISSION
OFFICIAL FILE COPY

JUN 29 1998

NAME	INITIAL
MCC	MCC
MCC	MCC
CLASSIFICATION	
PROJECT	

Joan Digiorgio
Utah Reclamation Mitigation and Conservation Commission
102 West 500 South #315
Salt Lake City, Utah 84101

Dear Ms. Digiorgio:

I have reviewed the information submitted regarding the request by the Town of Alta to appoint you to serve on its Planning Commission. Based on the memorandum from your supervisor, Mr. Michael Weland, and the additional information you provided, I do not see a problem with your appointment to the Town of Alta Planning Commission under the circumstances outlined since your formal (Mitigation Commission) relationship is with the Forest Service and not with the Town of Alta.

In the subject memo, it states that technically, the Planning Commission could be involved in a rezoning of the subject lands, although that is highly unlikely. In the event of rezoning, you confirmed that you would recuse yourself and, as there are 7 Planning Commission members, that would not be a problem for the Town, which would then avoid any conflict of interest, or appearance of. However, you should keep the following statutes in mind and ensure that you are in compliance:

18 U.S.C.203(a), prohibits an employee from seeking, accepting, or agreeing to receive or accept compensation for any representational services, rendered personally or by another, in relation to any particular matter in which the United States is a party or has a direct and substantial interest, before any department, agency, or other specified entity.

18 U.S.C.205, prohibits an employee from representing anyone other than yourself or a family member before a court or government agency in a particular matter in which the United States is a party or has an interest.

18 U.S.C. 208, prohibits you from personally and substantially participating, in your official capacity, in any "particular matter" in which you have a direct or indirect financial interest.

In addition, you should ensure you are not using non-public information that has been gathered or is utilized by the Mitigation Commission, you should not use your government title on any products generated under this contract, and you should not perform any work for the Town of Alta Planning Commission on government time or use any government resources, equipment, etc.

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COPY

From: Joan Degiorgio
To: mweland
Date: 4/7/98 3:43PM
Subject: Alta Town Planning Commission

I have been asked to serve on the Alta Town Planning Commission. The position is voluntary. There is a small payment of \$75 for the quarterly meetings to cover expenses. The Commission does have one project within the boundaries of the Town of Alta. We are funding the Forest Service to acquire lands in Albion Basin. I am the contact person for that contract and project. The project is included in the Mitigation and Conservation Plan. While the Commission is not providing funds to the Town of Alta, the town does participate with the Commission staff on a coordinating committee that is interested in Albion Basin..

I do not perceive any conflict of interest and would like to accept the position, but will defer to your judgement.

F.Y.I. I believe that Rich Harris, the forest engineer for the Wasatch-Cache National Forest, has served for years on the planning commission for North Ogden.

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UTAH RECLAMATION
MITIGATION
AND CONSERVATION
COMMISSION



February ,1998

Albion
Basin

File

Dear Landowner,

As a person with an interest in Albion Basin, you are undoubtedly well acquainted with its aesthetic and ecological values. Along with supplying spectacular displays of summer wildflowers, this hard working basin also provides 15 percent of the total surface culinary water supply to Salt Lake Valley. Because of its high watershed values there are a number of government and non-governmental entities that are interested in protecting the Basin. This protective effort involves acquiring all private lands and managing them for watershed values. The intent of this letter is to introduce you to the entities involved in this project and the role you can play in helping to protect this unique area.

Agents for Acquisition

The Friends of Alta¹ have joined with Salt Lake City, the U.S. Forest Service and the Mitigation Commission² to accomplish the vision of protecting Albion Basin from further development. With this team approach they have the ability to offer willing sellers a variety of options for land purchases and management.

Forest Service and Mitigation Commission - You have been contacted in the past by the Forest Service to sell your property. This option is again available with one significant difference. The Forest Service will be acquiring parcels from willing sellers with Mitigation Commission funds. Because the Mitigation Commission is using these acquisitions to off-set impacts to watershed values in other areas, the area acquired must be managed for watershed purposes. The Mitigation Commission and Forest Service have agreed that any parcels acquired with Commission funding will be managed exclusively for watershed purposes.

Salt Lake City - Salt Lake City has a keen interest in Albion Basin as a water supply source for Salt Lake City and County. Lands acquired by the City would be managed exclusively for watershed purposes.

¹ A non-profit organization that works to protect Alta's resources and environment.

² The Mitigation Commission is a federal agency, created by Congress in 1992, to carry out a compensation program to redress impacts to wildlife and watershed values caused by federal reclamation projects in Utah.

Friends of Alta - Lands acquired by the private non-profit Friends would be managed for watershed purposes. They would only be traded or sold to a public agency to be managed for watershed purposes. Residential or commercial use would not be allowed. Recreation use would be allowed that did not impact watershed values.

Other Considerations

Tax Advantages Lands donated to either the Friends or the Forest Service may be considered a charitable contribution and used to reduce taxes.

Public Acknowledgment of Contribution The Friends of Alta are working with the Forest Service to develop a Memorial Grove in Albion Basin. Those property owners who either sell or donate their land in Albion Basin will have their names listed on a plaque in the Memorial Grove as contributing to the preservation of the Basin.

Certificate of Appreciation Those selling or donating land will also receive a Certificate of Appreciation from the Friends of Alta identifying their contribution.

Your Role

Obviously without your, and other landowners, participation - this watershed team can not accomplish its vision. Hopefully, we can provide alternative acquisition avenues to suit your individual need. Please contact any one of our group for more information.

Jeff Niermeyer
Salt Lake City Public Utilities
1530 South West Temple
Salt Lake City, Utah 84115
Phone: (801) 483-6785
Fax: (801) 483-6855

Mimi Levitt
Friends of Alta
Alta, Utah 84092
Phone: (801) 742-3500
Fax: (801) 742-3504

Doug Muir
Wasatch-Cache National Forest
8230 Federal Building
125 South State Street
Salt Lake City, Utah 84138
Phone: (801) 524-5104
Fax: (801) 524-3172

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Sincerely,

Bernie Weingardt
Forest Supervisor
Wasatch-Cache National Forest

Mimi Levitt
President
Friends of Alta

LeRoy Hooten
Director
Salt Lake City Public Utilities

Michael Weland
Executive Director
Mitigation Commission

Bill Levitt
Mayor of Alta

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Condemnation has not been part of our commitment to Mayor Levitt. We have agreed to support the acquisition of the private lands and hold the line on the water contracts we gained from the Little Cottonwood Water Company as means of preventing development of the lots in the three subdivisions. We've even indicated that we would participate in the purchase of the lots (before the Mitigation and Conservation funds were contained in the 1992 CUPCA); but only to the appraised value of the lots without water, which greatly reduced their value. I'm not sure how the USBOR appraised the lots to obtain the \$20,000 value, but it was necessary in order to encourage the owners to sell. I'm sure that in the dozens of meeting over the last eight years that condemnation may have come up, but we have not agreed to it, nor should we consider it. I believe that it would be very difficult to prove the public interest standard in a condemnation suit, or at least it would be very messy and expensive.

LeRoy

Reply Separator
Subject: Albion Basin Funding from Mitigation & Conservation
Author: Renee Tanner at CCMAIL
Date: 5/3/96 10:34 AM

The final plan, which was announced today, allocates only \$200,000 for the purchase of land in Albion. However, when Alta raised concern over the limited funding during today's hearing, the commission assured everyone that it will provide however much money is needed for the land.

The Commission does not expect any of the property owners to agree to sell until the current lawsuit is settled. In the meantime, they want to see an acquisition plan developed. They will then make sure that "money is no object" to acquisition by amending the plan (the plan can be amended each year) to include any needed funds. They repeatedly stated that they do not want to be "in the way" of protecting the basin.

Alta tells me that the Commission is interested in having SLC back the negotiations with the threat of condemnation. They are evidently looking to us because the Forest Service refuses to threaten it. Have you ever heard of that? It was certainly news to me!

Anyway, I'll send you over the sections of the plan relating to Albion Basin. If you would like to get a copy of the complete plan, URMCC's number is 524-3146. Thanks.

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UTAH RECLAMATION
MITIGATION
AND CONSERVATION
COMMISSION

102 West 500 South #315, Salt Lake City, Utah 84101-2328
Phone 801 524-3146 . fax 801 524-3148

COMMISSIONERS
Jody L. Williams, Chair
Don A. Christiansen
Robert C. Valentine
John F. Kimball
W. Cullen Battle

MITIGATION COMMISSION

COPY

May 29, 2003

Pat Shea
Friends of Alta
201 South Main Street, Suite 600
Salt Lake City, Utah 84111

OFFICIAL FILE COPY	
CODE	INITIALS
MC11	W
MC01	MEG
CLASSIFICATION	ADM 1200
PROJECT	ALBA

Subject: Agreement 03-FC-UT-0940, Watershed Restoration and Protection in the Albion Basin, Utah. Action is requested by 6/13/03

Dear Mr. Shea:

Enclosed are five original versions of Agreement 03-FC-UT-0940, Watershed Restoration and Protection in the Albion Basin, Utah. This agreement was approved and signed by the Utah Reclamation Mitigation and Conservation Commission at its May 14, 2003 meeting. Also enclosed are three SF 424B's. These documents are being forwarded to you for the appropriate signatures. After signing, please return all the documents to the Utah Reclamation Mitigation and Conservation Commission, Attention: Channa Vyfvinkel, at the letterhead address. To expedite implementation of this agreement, we ask that the documents be signed and returned to us by 6/13/03.

Once the agreement has been recorded, one original will be returned to your office. Your cooperation and assistance in this matter are greatly appreciated. If you have any questions please contact Mr. Mark Holden at (801) 524-3146.

Sincerely,



Michael C. Weland
Executive Director

Enclosures

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AGREEMENT

among the

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION,

THE FRIENDS OF ALTA,

and

SALT LAKE CITY CORPORATION

for

Watershed Restoration and Protection in the Albion Basin, Utah

I. AUTHORITY

This Agreement (AGREEMENT) among the Utah Reclamation Mitigation and Conservation Commission (COMMISSION), the Friends of Alta (FRIENDS), and Salt Lake City Corporation (SALT LAKE CITY), individually or collectively referred to as the PARTY or PARTIES, is made and entered into pursuant to the Central Utah Project Completion Act (Titles II through VI of the Reclamation Projects Authorization and Adjustment Act of 1992 [Public Law 102-575]) and the Utah Interlocal Cooperation Act, Title 11, Chapter 13, Utah Code Annotated 1953, as amended (the "Act").

The Central Utah Project Completion Act (CUPCA) provides for an orderly completion of the Central Utah Project (CUP), the largest participating project of the 1956 Colorado River Storage Project (CRSP), by authorizing an increase in the original appropriations ceiling for CUP. Titles III and IV specifically address fish, wildlife, and outdoor recreation mitigation and enhancement opportunities. Section 313(b) of CUPCA authorizes the activities described herein. Title III of CUPCA also established the COMMISSION to expend Federal mitigation and conservation funds appropriated under Titles II, III and IV.

II. BACKGROUND

Besides serving as important watershed, Alta, Utah, is also famous world-wide for its downhill skiing. Skier visits to Alta increased from 156,000 to 524,000 over a 25-year period from 1968 to 1992. There is a cost for this increasing use as the General Plan for the Town of Alta observed that "with the increasing demand for canyon use by both local and out-of-state residents, over-intensive development leading to irreparable damage to some of Utah's most valuable assets becomes a real possibility." The General Plan highlights Albion Basin, observing that the relatively small size of the basin, "coupled with the fact that the basin receives more total annual

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precipitation than other areas of the town and has considerable wetlands, makes protection of the watershed in this region a priority concern."

Congressional recognition of Albion Basin's watershed values is found in CUPCA. Section 313(b) of CUPCA authorized funds for land acquisition in Albion Basin "for the purposes of watershed restoration and protection." A central goal of CUP is to assist in providing an adequate water supply to the Wasatch Front. By protecting the quality and quantity of water supplied through Albion Basin wetlands, environmental resources of the area are protected and the need to develop new supplies of water is reduced, which together achieve goals of CUP.

In order to prevent development on important watershed properties in Albion Basin and comply with congressional direction, the Commission's Mitigation Plan has committed to support land acquisition efforts in Albion Basin.

III. PURPOSE AND OBJECTIVES

This AGREEMENT is to establish cooperation between the COMMISSION, SALT LAKE CITY and the FRIENDS, and to provide a funding mechanism for acquisition of watershed properties in the Albion Alps, Cecret Lake, and Albion Basin subdivisions and other land parcels in the Albion Basin area. This AGREEMENT obligates \$185,000 for the project.

IV. TERM OF AGREEMENT

This AGREEMENT shall be effective May 14, 2003 and shall remain in force and in effect until December 31, 2003, at which time the Scope-of-Work described herein shall be completed unless extended by mutual agreement.

V. SCOPE-OF-WORK - SPECIFIC OBLIGATIONS OF THE PARTIES

A. The COMMISSION will:

1. Reimburse SALT LAKE CITY up to a maximum of \$185,000.00 for services and expenses associated with acquiring identified lands in the Albion Basin for watershed protection and preservation. Reimbursement will not exceed a unit value of \$20,000.00 per acquired lot, which amount was determined by the government in 1999 to represent fair market value for the lots. No legal liability on the part of the COMMISSION for any payment may arise from performance under this AGREEMENT until funds are made available for performance.
2. Appoint a Project Officer to represent the COMMISSION in all matters regarding this AGREEMENT.
3. Provide project oversight, technical advice, and administration.

4. Participate in meetings or conference calls on an ongoing basis to review status and progress of the project.
5. Expeditiously review reports and requests for reimbursement submitted by SALT LAKE CITY, as required by Article VII. PAYMENT OF FUNDS.
6. Reimburse SALT LAKE CITY for all costs to complete the terms of the Scope-of-Work required in this AGREEMENT. No legal liability on the part of the COMMISSION for any payment may arise from performance under this AGREEMENT until funds are made available for performance.

B. SALT LAKE CITY will:

1. Assume the lead in Albion Basin land acquisitions, including purchasing watershed lands from the FRIENDS.
2. When the deeds are recorded and payment has been made, enforce the conservation easement restrictions applicable to the property. SALT LAKE CITY may after consultation with FRIENDS erect signs on the property notifying the public of the conservation easement, and the general terms thereof.
3. Appoint a Project Officer to represent SALT LAKE CITY in carrying out its obligations under this AGREEMENT.
4. Develop an internal fiscal process that provides financial reports to the COMMISSION detailing expenditures on Form MCC100, MCC300. A narrative detailing accomplishments and proposed activities for the next quarter is also due at this time. See also Article VII. PAYMENT OF FUNDS.

C. The FRIENDS will:

1. Coordinate with SALT LAKE CITY regarding land acquisitions in Albion Basin.
2. Appoint a Project Officer to represent the FRIENDS in carrying out its obligations under this AGREEMENT.
3. Reserve unto itself, or convey to itself, a conservation easement in any property conveyed to SALT LAKE CITY, as authorized under the Utah Land Conservation Easement Act, Title 57, Chapter 18, Utah Code Annotated, which conservation easement shall generally include the use restrictions set forth in Exhibit A attached hereto, and which shall otherwise be in form and substance

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satisfactory to FRIENDS and SALT LAKE CITY.

D. The PARTIES mutually agree to the following:

1. Ensure compliance with all requirements of the National Environmental Policy Act and all other applicable Federal environmental laws.
2. Purchased lands will be managed exclusively for watershed purposes. This specifically excludes any action which would negatively impact the quality or quantity of the watershed, including but not limited to, development or expansion of any developed recreation facilities or any residential, commercial, or industrial use.
3. SALT LAKE CITY and the FRIENDS accept the responsibility for completing all transactions with the landowners, including negotiations, recording deeds, and other documents.
4. SALT LAKE CITY and the FRIENDS assume all risks, liabilities, and consequences of performing additional work outside the specified Scope-of-Work without prior written approval from the Commission's Project Officer.
5. The COMMISSION reserves the right to review and approve solicitation documents and award packages prior to the award of any subcontract. All solicitations and subcontracts shall be in writing with a copy furnished to the COMMISSION. If any subcontracts are utilized, the terms of the following clause shall apply:

**UTILIZATION OF SMALL BUSINESS CONCERNS
AND SMALL DISADVANTAGED BUSINESS CONCERNS**

It is the policy of the United States that small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals shall have the maximum practicable opportunity to participate in performing grants and cooperative agreements awarded by any Federal agency. The PARTIES hereby agree to carry out this policy in the awarding of sub-agreements and contracts to the fullest extent consistent with efficient grant/cooperative agreement performance. The PARTIES further agree to cooperate on any studies or surveys as may be conducted by the United States.

Small Business Administration or the awarding agency of the United States as may be necessary to determine the extent of the recipient's compliance with this clause.

As used in this AGREEMENT the term "small business concern" shall mean a small business as defined pursuant to the Small Business Act (15 U.S.C. 631 et seq.) and relevant regulations promulgated pursuant thereto. The term "small business concern owned and controlled by socially and economically disadvantaged individuals" shall mean a small business concern:

- a. Which is at least 51 percent owned by one or more socially and economically disadvantaged individuals; or in the case of any publicly owned business, at least 51 percent of the stock of which is owned by one or more socially and economically disadvantaged individuals; and
- b. Whose management and daily business operations are controlled by one or more such individuals.

SALT LAKE CITY shall presume that socially and economically disadvantaged individuals include Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Asian-Indian Americans and other minorities, or any other individual found to be disadvantaged by the Administration pursuant to the Small Business Act (15 U.S.C. 631 et seq.).

SALT LAKE CITY, acting in good faith, may rely on written representation by their sub-recipients or contractors regarding their status as either a small business concern or a small business concern owned and controlled by socially and economically disadvantaged individuals.

VI. PROJECT OFFICERS

For the COMMISSION:

Mr. Mark Holden
Projects Manager
Utah Reclamation Mitigation and Conservation Commission
120 West 500 South, Suite 315
Salt Lake City, UT 84101-2328
(801) 524-3146 FAX: (801) 524-3148

For the FRIENDS:

Mr. Pat Shea
Attorney for Friends of Alta
201 South Main Street, Suite 600
Salt Lake City, UT 84111
(801) 517-6802 FAX: (801) 596-6802

For SALT LAKE CITY:

Mr. Jeff Niermeyer
Salt Lake City Corporation
Public Utilities Department
1530 South West Temple
Salt Lake City, UT 84115
(801) 483-6785 FAX: (801) 483-6855

VII. PAYMENT OF FUNDS

SALT LAKE CITY shall submit to the COMMISSION a completed reimbursement request at or near the end of each Federal fiscal quarter (First: October-December, Second: January-March, Third: April-June, Fourth: July-September). The reimbursement request shall be submitted with supporting documentation for actual expenditures incurred under this Agreement and *must* include the following forms:

1. Federal Request for Reimbursement Form (SF-270).
2. Mitigation Commission Reimbursement Form (MCC-100).
3. Narrative Report - A description of activities and accomplishments under each approved task. The narrative must also identify activities planned for the next quarter.
4. Property and Capital Equipment Inventory (MCC-300) - *To be prepared only if property or capital equipment is purchased.*
5. Financial Status Report Form (SF-269A) - *To be prepared only with a final request for reimbursement. See Below.*

SALT LAKE CITY shall retain all original receipts, invoices, vouchers, etc. substantiating all expenditures requested for reimbursement. These documents shall be made available to the COMMISSION upon request. All completed reimbursement requests shall be mailed to:

Utah Reclamation Mitigation & Conservation Commission
Attn: Financial Officer, Channa Vyfvinkel
102 West 500 South, Suite 315
Salt Lake City, UT 84101-2328

The COMMISSION'S Project Officer will provide a timely verification and approval of the reimbursement request.

SALT LAKE CITY is required to submit, independently, a completed Standard Form 269A, Financial Status Report, along with the *final* request for reimbursement. Final payment will be withheld pending receipt of the completed SF-269A.

VIII. MODIFICATIONS

Modifications to this AGREEMENT may be proposed by any PARTY and shall become effective only upon being reduced to a written instrument executed by signature of all PARTIES.

The PARTIES, respectively, will assume all risks, liabilities, and consequences of performing additional work outside of their specified Scope-of-Work, unless prior written approval is secured from the COMMISSION'S Project Officer.

IX. TERMINATION

This AGREEMENT may be terminated prior to the completion date specified in Article IV by any PARTY/PARTIES upon thirty (30) days written notice to the others. Upon receipt of such written notice, the PARTY/PARTIES will provide an accounting of remaining funds and outstanding contractual obligations of funds and return such funds to the COMMISSION.

Upon termination pursuant to this Article, all materials produced under this AGREEMENT, whether complete or incomplete, shall be immediately provided by the PARTY/PARTIES to the COMMISSION.

The COMMISSION shall pay for all work which, in the exercise of due diligence, the PARTY/PARTIES is unable to cancel prior to the effective date of termination. Payments made under this AGREEMENT, including payments under this article, shall not exceed \$185,000.

X. RESOLVING DISAGREEMENTS

The PARTIES agree to work harmoniously to achieve the objectives of the project. When disagreements arise between/among the PARTIES, they must be resolved according to the procedures discussed below:

1. The PARTIES shall attempt first to resolve disagreements through informal discussion among the staff responsible for project implementation.
2. If the disagreement cannot be resolved through informal discussion, each shall document the nature of the disagreement and bring it to the attention of their respective Project Officers.
3. After reviewing the facts of the disagreement, the Project Officers will arrange a formal meeting. The PARTIES will collectively decide on any varied approaches, which might be used to resolve the disagreement. The PARTIES shall be responsible for their individual expenses related to any approach utilized to resolve the disagreement.

4. Ultimately, if all other attempts at resolving the disagreement fail, a decision will be made by the COMMISSION, whose decision shall be final and conclusive, subject to the exercise by any party of its legal rights in any court of competent jurisdiction.

Any issue that arises after the signing of this AGREEMENT will be open for resolution in accordance with the above procedures, with the exception of continuation of the AGREEMENT (since any party may terminate the AGREEMENT with the specified notice), or other matters specifically addressed by the AGREEMENT itself.

XI. CONTINGENT ON APPROPRIATION

The liability of the COMMISSION, SALT LAKE CITY, and FRIENDS under this AGREEMENT is contingent upon appropriation and reservation of funds being made therefore.

XII. OFFICE OF MANAGEMENT AND BUDGET (OMB) CIRCULARS

1. The following OMB Circulars are incorporated herein by reference and apply to State and Local Governments.

A-87, Cost Principles for State and Local Governments;
A-102, Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments; and,
A-128, Audit Requirements for State and Local Governments

XIII. DATA FILES

All data files developed in fulfillment of the terms of this AGREEMENT will be shared with the COMMISSION (this includes but is not limited to GIS coverages, databases [hard copy and electronic media], reports, inventories, drawings, maps, etc.). Prior to final payment being made, the COMMISSION'S Project Officer shall be contacted to determine the disposition of data.

XIV. REPRESENTATION REGARDING ETHICAL STANDARDS FOR SALT LAKE CITY OFFICERS AND EMPLOYEES AND FORMER SALT LAKE CITY OFFICERS AND EMPLOYEES

The COMMISSION and FRIENDS each represent that they have not: (1) provided an illegal gift or payoff to a SALT LAKE CITY officer or employee or former SALT LAKE CITY officer or employee, or his or her relative or business entity; (2) retained any person to solicit or secure this AGREEMENT upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, other than bona fide employees or bona fide commercial selling agencies for the purpose of securing business; (3) knowingly breached any of the ethical standards set forth in SALT LAKE CITY'S conflict of interest ordinance, Chapter 2.44, Salt Lake City Code; or (4) knowingly influenced, and hereby promise that it will not knowingly influence, a SALT LAKE CITY officer or

employee or former SALT LAKE CITY officer or employee to breach any of the ethical standards set forth in SALT LAKE CITY'S conflict of interest ordinance, Chapter 2.44, Salt Lake City Code.

XV. INTERLOCAL COOPERATION ACT REQUIREMENTS

In satisfaction of the requirements of the Act, and in connection with this AGREEMENT, the parties agree as follows:

- (a) This AGREEMENT shall be approved by the legislative body of SALT LAKE CITY and the COMMISSION, pursuant to Sections 11-13-202 and 11-13-202.5 of the Act;
- (b) The effective date of this AGREEMENT is set forth in Section IV above, in satisfaction of Section 11-13-202.5(2)(a) of the Act;
- (c) The respective legislative bodies of both SALT LAKE CITY and the COMMISSION have submitted, or caused to be submitted, a copy of this AGREEMENT to the attorney authorized to represent SALT LAKE CITY and the COMMISSION, respectively, for review as to proper form and compliance with applicable law;
- (d) A duly executed original counterpart of this AGREEMENT shall be filed with the keeper of records SALT LAKE CITY and the COMMISSION, pursuant to Section 11-13-209 of the Act;
- (e) The Mayor of SALT LAKE CITY, the Executive Director of the COMMISSION, and the Director of FRIENDS shall be jointly responsible for administering this AGREEMENT, pursuant to Section 11-13-207(1) of the Act;
- (f) The term of this AGREEMENT does not exceed 50 years, satisfaction of the requirements of Section 11-13-216 of the Act;
- (g) The parties do not anticipate that, except as otherwise provided herein, any real or personal property shall be acquired by either party under this AGREEMENT. In the event any real or personal property is acquired by either party, or by the parties jointly, pursuant to this AGREEMENT, such property shall be acquired and held, and disposed of by such party upon termination of this AGREEMENT as agreed between the parties or as otherwise required by applicable local, state and federal law.

IN WITNESS WHEREOF, each party hereto has caused this AGREEMENT to be executed by an authorized official on the day and year set forth opposite their signature below.

UTAH RECLAMATION MITIGATION AND CONSERVATION COMMISSION

By: Jody L. Williams
Jody L. Williams, Commission Chair

Date: 5-14-03

FIELD SOLICITOR'S OFFICE

APPROVED

Christash B. Ricci
Field Solicitor's Office

THE FRIENDS OF ALTA

By: _____
Mimi Levitt

Date: _____

SALT LAKE CITY CORPORATION

By: _____

Date: _____

ATTEST AND COUNTERSIGN:

CHIEF DEPUTY CITY RECORDER

EXHIBIT A

The following activities and uses shall be prohibited, pursuant to a conservation easement reserved by FRIENDS, on, over, under or in connection with any property acquired by SALT LAKE CITY under this AGREEMENT:

- A. Development or pre-sale, division, subdivision or *de facto* subdivision of the property for any type of human occupation or commercial, industrial or residential use;
- B. Construction of buildings, residences, mobile homes, or other structures, fences (other than livestock control fences), or any other improvements for use for human occupation, constructed or placed in, on, under, or upon the property;
- C. Any act or use that would impair the quality of the watershed, scenic tranquility, ecological integrity, and generally, open character of the property;
- D. Quarrying, mining, excavation, depositing or removing of rocks, gravel, minerals, sand, or other similar materials from the property;
- E. The drilling of water wells, the construction, operation and maintenance of water diversion, collection and distribution facilities, or other conduct in violation of SALT LAKE CITY'S Watershed Protection ordinance 17.04.101 *et seq.* Salt Lake City Code, or its successor;
- F. Predatory animal control operations, including trapping;
- G. Residential, or industrial uses of the property;
- H. Commercial uses of the property;
- I. Motorized vehicular access or use of the property, except for wild land fire suppression and other emergency needs;
- J. The construction upon or over the property of any aerial tramway or other means of conveyance of the public for transportation for recreation or other uses, or the construction of downhill or alpine skiing facilities;
- K. Constructing or placing of any building mobile home, transmission or receiving tower, (excluding any snow survey and/or avalanche control facilities), energy facility, or other temporary or permanent structure or facility on or above the property;
- L. The installation of underground storage tanks or the placing, filling, storing, or dumping on the property of soil, refuse, trash, vehicle bodies, rubbish, debris,

49N/147 B

junk, waste, radioactive or hazardous waste;

M. Uses of the property that would alter the topography of the Property;

N. Uses of the property that would be detrimental to water quality or that would permanently alter the normal ground water level;

O. The creation of roads, except temporary roads that may need to be constructed for wild land fire suppression or other rescue activities, which temporary roads shall be reclaimed upon the cessation of use;

P. No utility rights-of-way shall be located within the property, or granted through easement after the date of this instrument; and

Q. Any unanticipated use or activity on or at the property, unless such use or activity is manifestly consistent with, or necessary to achieve, the stated conservation purposes, in which case such use or activity shall be subject to the prior approval of FRIENDS, which approval shall not be unreasonably withheld.

THE ALBION BASIN CABIN OWNERS ASSOCIATION
1740 Hubbard Avenue
Salt Lake City, UT 84108

July 8, 1988

Town of Alta
Alta, Utah 84039

Gentlemen:

The Albion Basin Cabin Owners Association met on June 28, 1988 to discuss the status of efforts to eliminate or revise the town ordinance which prohibits rentals of cabins for periods than less than 30 days. After extended discussion, all members of the Association present at the meeting voted unanimously to commence proceedings to disconnect the subdivisions in Albion Basin from the Town of Alta. While all cabin owners and property owners were not present at the meeting, we are confident that we have the majority required to file a petition for disconnection pursuant to Section 10-2-501 of the Utah Code.

This letter is formal notice of our intent to file for disconnection on September 15, 1988 unless we can reach a satisfactory solution to the problems with the Town of Alta in the interim. We have raised our concerns at several meetings and on April 1, 1988 submitted a formal request that the ordinance be reconsidered. An offer was made at the Planning Commission meeting in early April to pay the fee to meet and address the issues in the letter dated April 1, 1988. To date we have had no response whatsoever.

Despite statements by Bill Leavitt and others at meetings that they do not see a problem with periodic short term rentals, we continue to be subject to an ordinance which describes any rentals of less than 30 days, regardless of infrequency, as "commercial activity." While the Cabin Owners Association does not think there should be any prohibition on rentals, we are not aware of any counter proposals from either the Town or the Planning Commission which would attempt to distinguish between activities which are truly commercial and rentals which are incident to ownership of property at a resort area.

We trust that you have noted that on June 28, 1988 the Salt Lake County Commission refused to prohibit the short term rental of canyon homes and cabins but instead recommended that a citizens council be formed to handle complaints. We hope you noted also the comments of Governor Norm Bangeter to the Commission asking them to defeat the proposal which prohibited short term rentals and discussing the detriment to the State resulting from such rules.

51 N/147/85

Town of Alta
July 8, 1988
Page -2-

We have carefully reviewed the issue of disconnection and we are confident that our petition, when filed, will be successful. We note, for example, the standard applied in Howard v. Town of Northwest Salt Lake, 323 P.2d 261 (1958) where the court held that disconnecting territory from a town was proper where the area was not shown to be required for the future of the town, did not receive any substantial benefits from the town, and where the disconnection was resisted by the town mainly because of the loss of tax revenues. That accurately describes the situation with the Albion Basin subdivisions and the Town of Alta.

We urge you to address our concerns, propose alternatives to the existing ordinances, meet with us and otherwise work to find a solution to this problem during the period before we file a disconnection petition on September 15, 1988.

Sincerely,

ALBION BASIN CABIN OWNERS ASSOCIATION
By the Steering Committee:

Chuck Miles
Dick Nebeker
Dick Nelson
Del Draper
Lincoln White

cc: Alta Town Planning Commission and Commission Members
Alta Town Council Members
Cabin Association Members

52N / 147 RS

**SALT LAKE CITY-COUNTY
HEALTH DEPARTMENT**



610 South 2nd East, Salt Lake City, Utah 84111
Phone: 534-4510

TERRY D. SADLER, DIRECTOR
Division of Environmental Health

April 19, 1989

Mr. Richard Rusk, Acting District Ranger
Forest Service, Salt Lake Ranger District
6944 South 3000 East
Salt Lake City, Utah 84121

Re: Watson Shelter Lodge Sewer Proposal

Dear Richard,

We have reviewed the scoping document submitted to us April 14th regarding the installation of a lateral sewer line from the main interceptor to the Watson Shelter.

The City-County Health Department supports the extension of sewer laterals as a matter of public policy in all canyon watersheds. This policy has been articulated in both the Area-Wide Water Quality Management Plan and the Salt Lake City Watershed Plan.

The comparison of alignment alternatives discussed in the scoping narrative and summarized in Attachment A appear to focus on the Corkscrew route as the most effective with least environmental impact. We concur with the judgement of Alta Ski Lifts and the Forest Service on the selection of this route.

However, we request that the Forest Service coordinate with the City-County Health Department on inspections of surface runoff control practices implemented both during and after construction.

Sincerely,

Steven F. Jensen, M.P.A.
Environmental Planning Coordinator

BOARD OF HEALTH
Dick Bollard
Chairman
Cindy Gust-Jenson
Vice Chairman
Ann Ford
Kirk Gilmore, M.D.
Linda Hamilton
Paul McClure
L. Jed Morrison, M.D.
Quinn McKay
R. Todd Neilson
Neil K. Nixon, D.D.S.
Rulon Simmons, M.D.
D. Michael Stewart
Roy Turner
Lee Wanlass
Tamara Wharton
Sandra Ercanbrack
Secretary

53 N/147 BS

Aug
Alta - Snowbird Sewer

SALT LAKE CITY CORPORATION

E. J. GARN
MAYOR

DEPARTMENT OF
WATER SUPPLY AND WATERWORKS
114 CITY & COUNTY BUILDING
SALT LAKE CITY, UTAH 84111

CHARLES W. WILSON
GENERAL SUPERINTENDENT

August 9, 1973

Dr. Harry L. Gibbons, Director
City - County Board of Health
610 South 2nd East
Salt Lake City, Utah 84111

Dear Dr. Gibbons:

SUBJECT: Alta Sewer

Richard F. Sherwood reports that on August 2, 1973, the town of Alta's engineer (Gardner) met with Mr. Sherwood and Dick Smith, the contractor on the Alta sewer. An on site inspection of the existing problems with the incompleted Alta to Snowbird sewer was made. Possible solutions to the problems were discussed and the contractor agreed to correct the problems and complete this portion of the sewer. However, Mr. Smith stated he should not be expected to come back onto the job until he is paid for the extras incurred last winter.

Mr. Gardner stated that Snowbird and Alta have not resolved their differences as to who is responsible for extra work performed by the contractor. Even though the existing sewer alignment has been corrected and new rights of way described, the property owners are refusing to sign the agreements, particularly where extra work was requested.

All of the water pressure tests on the manholes, and the main 10-inch sewer were made by Mr. Jensen, the contractor foreman, after the middle of October. There were no records made on these tests according to the contractor.


We have again asked that the town of Alta have an engineer draw a plan showing an approved method of making sewer connections. This plan to be approved by the State and other agencies before any more plumbing contractors are allowed to break into the manholes and install connections. The connections that have been made are far from water tight. The attached picture shows a questionable connection that was made to the cabin adjacent to the upper bypass road bridge in Manhole No. 21. A plumbing contractor has broken through the manhole side wall just above the base. He cut directly through the water stop as well as the lower reinforcing rod which in our opinion, renders the water stop useless. The concrete patch was not dry-packed nor was any iron or aluminum additives used to keep the patch from shrinking away from the upper part of the hole. There seems to be no control by permits or inspection of these connections.

542/147 K

The water department and the state have consistantly requested the installation of blind stubs in the original manhole bases where there was the possibility of future connections. As this request was ignored, it seems logical that a water test be required on each manhole where field connections will be necessary since the required stubs were not installed.

The Cliff Lodge has also made a connection to the sewer with an outside 90° bend. This certainly points out the need for stopping any further field connections to this sewer until some definite control of this method of connection is established and enforced.

Sincerely,

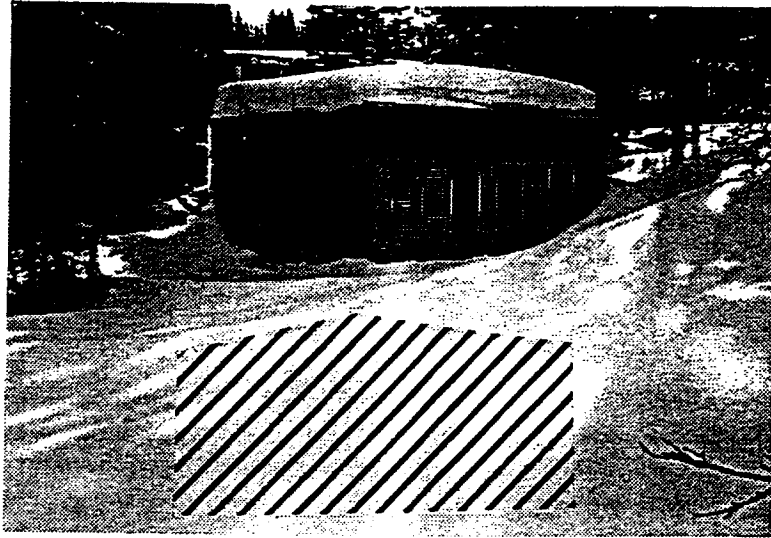

CHARLES W. WILSON
General Superintendent

RFS/ms

cc: State Board of Health

55N/147 JS

AREA WIDE



Sugarloaf Snowmaking Pump Building

Project Description:

Snowmaking: Install a snowmaking system which would include a reservoir system capable of storing four million gallons of water. Three underground reservoirs would be constructed, one in the outrun of Nina's curve, a second east of the Alpenglow Restaurant and a third at the top of Aggies Alley. A cooling tower would be constructed in the trees northwest of the General Office building. It is proposed to add additional snowmaking lines along Crooked Mile, Devil's Elbow, Roller Coaster, Blitz and along the Transfer Tow. All lines and hydrants would be underground. Water sources for this proposal include, the Hecla and Qunicy mines, Little Cottonwood Creek (at the old Landus jump site), Wildcat parking lot detention basin, Cercet Lake and the Town of Alta water system. For the development of Cercet Lake, Alta is proposing drilling a shaft in the Monkey's hump area into the deepest part of the Lake. Water would then be pumped out of the lake to make snow. An additional pump house, measuring approximately 25 by 25 feet would be located next to the Sugarloaf generator building. When completed all lines, reservoirs and water systems would be interconnected. Snowmaking is not intended to open the area but to supplement the natural snow which Alta receives.

Need for the Project:

The intent of this proposal is to provide snow cover on selected parts of the lower and middle sections of the mountain, especially during early season. Alta has identified approximately 30 acres of high traffic and break over areas which need additional early season snow cover. To cover the Sugarloaf and Albion areas, a stage pump is required to maintain water pressure. This proposal is not intended to elongate the skiing season but to provide adequate skiing conditions when the resort opens. In addition to snowmaking, the three reservoirs on the upper portion of the mountain would also provide additional water to flush toilets and provide fire protection at both the Alpenglow and Watson Shelter restaurants.

LEROY W. HOOTON, JR.
DIRECTOR

JOSEPH S. FENTON
SUPERINTENDENT, WATER RECLAMATION

WENDELL E. EVENSEN, P.E.
SUPERINTENDENT
WATER SUPPLY & WATERWORKS

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY & WATERWORKS
WATER RECLAMATION
1530 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84115

PALMER DePAULIS
MAYOR

March 11, 1988

Mayor William Levitt
Town of Alta
Alta, Utah 84092

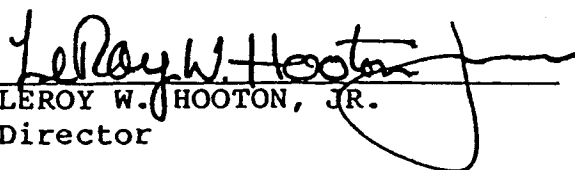
Dear Mayor Levitt:

We recognize that there are existing authorized uses of private property in the Albion Basin which are only cabins with intermittent use. We feel that any further expansion beyond this limited existing use, especially commercial development, would adversely affect water quality in Little Cottonwood Canyon and would not be consistent with Salt Lake City's Watershed Management Plan (the page applying specifically to Little Cottonwood Canyon is attached).

We wish to point out that, in our existing water supply contract with the Town of Alta (dated 1976), it specifically states that the Town of Alta cannot expand its water system into areas outside of the town limits (as defined at the time of the contract) without the consent of Salt Lake City. Our Department will certainly not approve any expansion of Alta's water system into the Albion Basin.

The Salt Lake City Watershed Management Plan, developed after extensive public meetings and input, and which is now being considered by the City Council, further indicates that much of the private land in Albion Basin should be acquired as part of Salt Lake City's Watershed Acquisition Plan to preserve water quality in Little Cottonwood Canyon.

Sincerely,


LEROY W. HOOTON, JR.
Director

WE/co
90:54

57N/147 B

*File
ALTA
L.C. Canyon*

LEROY W. HOOTON, JR.
DIRECTOR

JOSEPH S. FENTON
SUPERINTENDENT, WATER RECLAMATION

WENDELL E. EVENSEN, P.E.
SUPERINTENDENT
WATER SUPPLY & WATERWORKS

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY & WATERWORKS
WATER RECLAMATION
1530 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84115

PALMER DEPAULIS
MAYOR

March 11, 1988

Mayor William Levitt
Town of Alta
Alta, Utah 84092

Dear Mayor Levitt:

We recognize that there are existing authorized uses of private property in the Albion Basin which are only cabins with intermittent use. We feel that any further expansion beyond this limited existing use, especially commercial development, would adversely affect water quality in Little Cottonwood Canyon and would not be consistent with Salt Lake City's Watershed Management Plan (the page applying specifically to Little Cottonwood Canyon is attached).

We wish to point out that, in our existing water supply contract with the Town of Alta (dated 1976), it specifically states that the Town of Alta cannot expand its water system into areas outside of the town limits (as defined at the time of the contract) without the consent of Salt Lake City. Our Department will certainly not approve any expansion of Alta's water system into the Albion Basin.

The Salt Lake City Watershed Management Plan, developed after extensive public meetings and input, and which is now being considered by the City Council, further indicates that much of the private land in Albion Basin should be acquired as part of Salt Lake City's Watershed Acquisition Plan to preserve water quality in Little Cottonwood Canyon.

Sincerely,

Leroy W. Hooton
LEROY W. HOOTON, JR.
Director

WE/co
90:54

*Original given to
Lee Kapoloski*

*Copy mailed
to Mayor Levitt
3-15-88*

LITTLE COTTONWOOD CANYON WATERSHED MANAGEMENT

Recommendation: Salt Lake City should maintain the existing watershed management practices in Little Cottonwood Canyon. Private lands in critical watershed areas should be considered as part of the recommended land acquisition program.

Salt Lake City should develop an inter-local agreement with Sandy City, Town of Alta, and other communities with major watershed responsibilities in Little Cottonwood Canyon to define objectives for watershed management, delineate roles and responsibilities in the Canyon, and outline policies to be pursued in the Canyon.

Implementation: 1988 for inter-local agreement, ongoing.

Explanation: Little Cottonwood Canyon has the best water quality of all the Wasatch Mountain canyons used for Salt Lake City water supply. The excellent water quality is maintained despite heavy and increasing recreational use. Salt Lake City, Alta Town, Salt Lake County Service Area #3, and private users have utilized effective watershed management practices to control potential water quality deterioration. Salt Lake City should continue to work closely with other Little Cottonwood Canyon jurisdictions to retain excellent water quality and to be vigilant in watershed protection measures.

Salt Lake City shares water rights in Little Cottonwood Canyon with other municipal entities, most notably Sandy City. Informal coordination between the municipalities has been good, but no joint policies have been developed to assure a long-term relationship and establishment of practices and responsibilities between these Canyon water rights owners. Sandy City expressed support for the inter-local agreement option of the Draft Watershed Management Plan. To delineate working relationships in the Little Cottonwood Canyon watershed, establish notification procedures for Canyon activities, and solidify general policy approaches for watershed protection, Salt Lake City should establish an interlocal agreement for the Canyon.

The Town of Alta and several respondents have noted the large amount of developable private land in the Upper Canyon that could adversely affect the watershed. Salt Lake City should evaluate these private properties as part of the broader land acquisition program recommended in this Proposed Plan.

ALBION BASIN WATER

A. Information from Haik case

- 1963 Canyon Lands (an Albion subdivision) entered into a contract with Little Cottonwood Water Co.. 50 gallons a day to 35 lots.
- Prior to 1971 Albion relatively free of county zoning regulations
- 1966 County adopted uniform zoning regulations.
- November 1971 County sought to limit building in Albion by an amendment to the 1966 ordinance requiring no building on less than 50 acres
- 1975 Utah Supreme Court invalidated 1971 amendment due to improper notice (Marv Melville) *Melville vs. S.L. County*, 536 P.2d 133 (Ut. 1975).
- August 4, 1975 County adopted another zoning ordinance restricting Albion to 1 single family per lot (Melville wanted 4plexs)
- May 1976 2nd Melville trial to force 4plex permits
Lost in district court - fail to show any company or person had right to use sufficient water in Little Cottonwood Canyon to supply 400 gallons/day/unit required by the County Board of Health.
- 1977 Utah Supreme Court - 50 gallons not sufficient to meet 400 gallon requirement *Melville vs. S.L. County*, 570 P.2d 687 (Ut. 1977). Failure to show right to water from mine or spring under. *Riordan vs. Westwood*, 115 Utah 215, 203 P.2d 922 (1949). The spring produced 20 gallons per minute which Health Department testified was adequate to supply the proposed 4 plexes with required 400 gallon per day, 570 P.2d @ 688, 89.
- August 12, 1976 SLC intergovernment agreement with City of Alta to provide not to exceed 265,000 gallons per day but Alta can't extend pipe lines beyond Alta City limits. SLC refused to give Melville water.
- 1981 Alta annexed Albion Basin subdivision. August 20, 1981 Alta issued building permits subject to Health Department approval of water and sewage (required 400 gallons/day).

- 1983 Alta requested amendment authorizing extension of water to newly annexed Albion Basin properties. Salt Lake City refused.
- 1988 SLC adopted a Watershed Management Plan and consented to Alta's use of water to make snow within City limits which in 1988 included Albion Basin. Also SLC, Alta and other governmental entities began acquisition strategies to acquire private land in Albion.
- 1988 SLC took over obligations and various water supply contracts of Little Cottonwood ~~Water~~ Co including 1963 agreement regarding Albion Basin Subdivision #1 following the dissolution of the Company in 1994.
- April 1991 SLC adopted Watershed Ordinance 17.04.020A which prohibits SLC from entering into any new water sales agreements, or expanding existing agreements, with 3 exceptions:
- (1) Water sales for residential use to property owners with a spring on the property;
 - (2) Water sales to government for use on land they own or lease; and
 - (3) Water sales for snow making and fire protection.
- 1992 Pursuant to 1991 ordinance, SLC agreed to supply water to US Forest Service for recreational purposes including Albion Basin Campground.
- 1993 SLC agreed to use of water for snow making
- 1995 SLC consented to extension of Alta's water lines to Alpenglow lodge which purportedly falls within 1976 City limits and therefore within terms of 1976 Water Supply Agreement.
- November 1992 Alta prepared a general plan which identifies Albion Basin as "high priority" for acquisition by Alta of private land and recommends no future development be allowed in areas not served by public sewer system.
- September 1994 Alta memo of understanding with US Forest Service acknowledging most private land in Albion undeveloped, some properties lack water rights necessary for development and endorsing public acquisition of land in the Albion Basin.

B. Waters of Little Cottonwood Canyon are subject to extensive prior appropriation. *Little Cottonwood Water Company vs. Sandy City*, 258 P.2d 440 (1953).

SLC not Alta holds all the cards

Alta's physical capacity to provide water does not translate into the legal capacity because Alta's legal capacity remains circumscribed by the 1976 Water Supply Agreement.

Sweetwater Properties vs. Town of Alta, 622 P.2d 1178 (1981).

SLC has no legal duty to furnish water to users outside its own city limits

C. December 30, 1981 Agreement - Little Cottonwood Water Company and Owners of Homes in the Cecret Lake Area re Use of Water for Domestic Purposes.

1. Land divided into 15 building lots. Users represent land will not be further subdivided and maximum number of buildings will be 15.

2. Predecessor Cecret Lake Water Corporation had a permit from Division of Health to install diversion facilities from a spring at a point from which Sec. cor. of Sec 32 and 33 on the South Boundary of T. 2 S. R. 3 E. SLM bears North 52°34' West 300 ft; thence North 37°26' East 1130.2 Feet; thence North 52°34' West 600 Feet; thence North 21°6' West 7371.4 feet.

3. The terms of the permit are incorporated into this Agreement

4. Agreed:
1. Users commence diversion at above point and run directly to cabins.
 2. Users construct and maintain the pipe lines at their own cost, Water Co has no obligation to maintain. Turn off valve at each cabin so service can be discontinued.
 3. Users provide by June 1 of each year a statement showing each cabin to which water delivered and pay \$25.00 rate will be adjusted upwards each year in proportion to SLC rates.
 4. Use for domestic only.
 5. Users take water as is, no representation as to quality.
 6. Agreement is only to deliver waters in excess of Water Company's other obligations, and if Company is unable to deliver, it may cancel the Agreement.
 7. Water Company can terminate delivery for violation of this Agreement including, failure to pay annual rental.
 8. Agreement can be assigned to SLC.

N:JEGVALBION.BSN

D

TUESDAY

JUNE 3, 2003

Alta Ski Area wins environmental award

Alta Ski Area has earned an environmental award from *Ski* magazine for minimizing the visual impacts of withdrawing water from Cecret Lake for its snowmaking operations.

The Little Cottonwood Canyon resort won one of seven Silver Eagle awards presented last week at the National Ski Area Association convention in San Diego. Whistler/Blackcomb Mountain Resorts in British Columbia won the overall excellence award.

Alta was honored in the "visual impact" category for using an underground siphon system rather than pipes and trenches, "for obvious aesthetic reasons," to transport water from Cecret Lake to the snowmaking system.

Resort spokeswoman Connie Marshall said the system "allows Alta to pump water into the lake in the fall months, after Salt Lake City Water drains it for irrigation . . . improves employee safety and reduces environmental risks to the lake. There was no trenching or disruption of the lake rim."

Alta's handling of Cecret Lake has not received universal applause. Save Our Canyons disliked the resort's removal of lake water and the visual impact of construction.

"That's a preposterous award," said Save Our Canyons leader Gale Dick.

— Mike Gorrell

63N/147 JS

INTEROFFICE MEMORANDUM

TO: FILE

FROM: LeRoy W. Hooton, Jr., Director

DATE: April 3, 1992

RE: MAYOR LEAVITT MEETING

Those in attendance were: LeRoy W. Hooton, Jr., Dallas Richins, Brian Hatch, Anne Quinn, Mayor Leavitt and John Golder.

1. We discussed the status of Salt Lake City's effort to acquire Little Cottonwood Water Company water contracts in the Albion Basin. We indicated that there was a snag with the transfer because of a recent lawsuit. However, Salt Lake City and Dallas Richins, Secretary of the Company have been able to discourage new development by relying on the regulation that requires 400 gpd water for a building permit.
2. We indicated to Mayor Leavitt that we didn't know how the lawsuit by Cahoon & Maxfield, et al, would affect Alta's water supply contract with Salt Lake City, but we felt that we could work through the suit and have alternatives.
3. Mayor Leavitt expressed his concern about potential development in the Albion Basin and the commercial use of some of the cabins.
4. Mayor Leavitt said that he was initiating an environmental wetlands study of the Albion Basin to define wetlands within the watershed. The study will be conducted by Steve Jensen of the City-County Health Department and has the support of the City-County Health Department and the U.S. Forest Service. He asked for Salt Lake City's support which he was given.
5. The discussion turned to the purchase of the Albion Basin private lots and Mayor Leavitt's frustration over the appraisal process. He indicated that the property owners are paying taxes on lots assessed at \$10,000 while the Forest Service appraisals would only pay for watershed land at \$200 to \$500 per lot. He said that the Lift Company had recently sold lots for \$10,000 plus a tax write-off. He further stated his concern over potential events that in the future could lead to development in the Albion Basin.
6. We indicated that the Albion Basin is still a high priority for purchase by the Public Utilities Advisory Committee and that we still support converting the private land to public ownership. We further talked about the Central Utah Completion Act which provided \$4.1 million for watershed land purchases including Albion Basin. Mayor Leavitt indicated that he learned that there

64N/147 JB

INTEROFFICE MEMORANDUM

To FILE

April 3, 1992

Page -2-

were some who wanted to divert these funds for other purposes. We again reiterated our support for the land purchase and our efforts would be directed to prevent the Central Utah Water Conservancy District from diverting these funds to other areas.

7. It was finally agreed that we would take a fresh look at this issue to see if we could come up with some innovative way of paying a more realistic price for the lots. Mayor Leavitt suggested a cost-sharing with the "Friends of Alta" organization.
8. Meeting concluded with both Salt Lake City and Town of Alta making a commitment to cooperation and joint efforts in protecting the watershed and water quality in Little Cottonwood Canyon.

LWH/db

65N/147 JS

5/11/89

copy of
Palmer's letter
for a re-look
@ Melville's
A in Albion
Basin

PALMER DEPAULIS
MAYOR

SALT LAKE CITY CORPORATION

OFFICE OF THE MAYOR
324 SOUTH STATE STREET
FIFTH FLOOR, SUITE 500
SALT LAKE CITY, UTAH 84111
535-7704

April 28, 1989

Mr. Patrick F. Noonan
President
The Conservation Fund
1800 North Kent Street, Suite 1120
Arlington, Virginia 22209

Dear Mr. Noonan:

After my meeting with your staff on March 14, I was encouraged about the possibility of Conservation Fund involvement in the public acquisition of private properties in Albion Basin, Utah. Your decision not to pursue acquisition/donation of the lands in question was understandably disappointing. I wonder, though, if the Conservation Fund would consider purchase and donation to the Forest Service of lands in Albion Basin owned by a single individual--a less ambitious, yet vital component of achieving public ownership of the privately owned vacant lands?

Salt Lake City, the Town of Alta, the local Forest Service, and other local jurisdictions continue to cooperate in pursuing alternatives to publicly acquire vacant Albion Basin private lands including direct purchase of individual lots to the extent local public funding sources afford and exploring possible involvement from other third parties. The full acquisition process may take some time, but at least the lands will finally be owned and managed by public entities who have a regard for protection of the watersheds and the environs of Albion Basin. We are also continuing to pursue strategies to cause a more realistic perception of land values in the Basin. Salt Lake City is in the process of obtaining control of the existing water contracts which serve the three Albion Basin subdivisions and is commissioning Forest Service format appraisals on four representative Albion Basin properties.

I would ask, though, that the Conservation Fund take one more look at the Albion Basin situation. Would there be a possibility of funder consideration and Conservation Fund participation in the acquisition of the block of lands owned by Mr. Marvin Melville and Melville Construction. Melville owns two unsubdivided parcels adjacent to the Albion Basin Subdivision. One parcel is

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Jonan
April 26, 1989

2.87 acres and the other is 22.73 acres. A 1977 Utah Supreme Court decision upheld the denial of Melville's application for building permits to build four-plexes on these parcels. Melville was unable to demonstrate a 400-gallon-per-day-per-dwelling water supply as required by the Salt Lake City/County Health Department. Subsequently, Melville has offered his property for sale to other potential developers and has otherwise indicated that he is a willing seller. Melville also owns nine lots in the Albion Basin subdivision totalling 5.196 acres.

Materials which have already been provided the Conservation Fund include the 1977 court decision and the location and acreage of the parcels.

In this case, purchase of a total of 30.796 acres could be negotiated with one seller, a property owner who is fully aware of the limitations on development potential in the Basin. Salt Lake County assessed value of the total 30.796 acres is \$331,010 (\$11,500 for the 2.87 acre parcel, \$227,300 for the 22.73 acre parcel, and \$92,210 for the nine subdivided lots). We believe the real value of the properties may be substantially less than the assessed value given constraints on development. The 22.73 acre parcel is one we have identified for appraisal when the snows have melted sufficiently for appraiser access.

If the Conservation Fund were able to negotiate with Mr. Melville and your funder approved purchase and donation to the Forest Service of these properties or at least the largest parcels in these properties, a substantial and important contribution would be made toward public acquisition in the Basin. We believe we can identify other sources, including local sources, for public acquisition over time of the other individual vacant lots within the three subdivisions. Your participation in acquisition of the larger, single-owner blocks would tremendously assist us in achieving the goal of public ownership/management in Albion. Please feel free to call me at your convenience to discuss this proposal.

Thank you for your consideration and the time and attention you and your staff have already given to Albion Basin.

Sincerely,

Palmer St Paulis

Mayor

PD/ec:jf

H000479

67N/147 JS 152

LEROY W. HOOTON, JR.
DIRECTOR

E. TIM DOXEY
DEPUTY DIRECTOR

JAMES M. LEWIS C.P.A.
FINANCE ADMINISTRATOR

W. WILLIAMS FARMER P.E.
TREATMENT & ENVIRONMENTAL
ADMINISTRATOR

CHARLES CALL, JR. P.E.
CHIEF ENGINEER

CRAIG HANSEN
MAINTENANCE ADMINISTRATOR

FLORENCE P. REYNOLDS
WATER QUALITY ADMINISTRATOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
Water Supply & Waterworks
Water Reclamation & Stormwater

1530 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84115

M E M O R A N D U M

DEEDEE CORRADINI
MAYOR

TO: Anne Quinn, Administrative Assistant for
Intergovernmental Affairs

FROM: LeRoy W. Hooton, Jr., Director *LWH*

DATE: March 23, 1992

RE: ALBION BASIN

Background

In 1988, Mayor Leavitt approached Salt Lake City about his concerns over development within the Albion Basin. Specifically, he had a problem with a single family cabin that was being rented to skiers as it was a commercial establishment. Notwithstanding the commercial renting issue, Mayor Leavitt expressed his concern over the long term development of the Albion Basin.

There are three approved subdivisions in the Albion Basin with 21 homes built and 40 lots remaining to be built on. Also, there are various other parcels of private land that have development potential. Through Mayor Leavitt's efforts COG, the USFS and Salt Lake City all took positions that the Albion Basin should be protected and preserved for watershed.

Existing Water Contract for the Town of Alta

The Town of Alta receives its water supply through a 1976 surplus sales contract with Salt Lake City. The contract specifically states that the Town of Alta cannot expand its water system into areas outside of the Town's limits (at the time of the contract) without consent of Salt Lake City. On March 11, 1988, I confirmed that SLC would not approve any expansion of Alta's water system to serve the Albion Basin. Further, we agreed that the Albion Basin should be acquired as part of the City's Watershed Acquisition Plan.

S 0181

68W/M7 *B* 147

MEMORANDUM
Anne Quinn
March 23, 1992
Page -2-

Albion Basin Water Service Contracts

The three Albion Basin subdivisions receive water service from the Little Cottonwood Water Company through separate contracts.

The three subdivisions are:

- 1) Cecret Lake Subdivision (limited to 50 gpd/lot)
- 2) Albion Basin Subdivision (limited to 50 gpd/lot)
- 3) Albion Alps Subdivision (no limit specified)

The Little Cottonwood Water Company was formed in 1911 and stock issued to various ditch companies and individuals using water from Little Cottonwood Creek. Their primary water rights were acquired by saving water in Little Cottonwood Creek by constructing the cutoff ditch amounting to 3.03 cfs. They have water rights in Red Pine Lake and Cecret Lake both located in Little Cottonwood Canyon. Salt Lake City has exchange agreements with many of the stockholders in the Company.

The Company entered into various water contracts between 1945 and 1981 and of particular concern were the contracts for lots in the Albion Basin. When this area was annexed into the Town of Alta, there was pressure for Alta to provide them culinary water as two of the Little Cottonwood Company contract's are limited in volume and under current health requirements insufficient to allow a building permit (requirement is now 400 gpd). The third contract with Albion Alps does not specify the amount of water, but the source of water dries up and does not provide adequate water to serve the lots.

Efforts to Purchase Albion Basin

In 1989 the Town of Alta made a study of the Albion Basin properties as part of an acquisition plan. The total appraised value amounted to \$2.8 million; however both Salt Lake City and the USFS could not accept the appraisals as public entities. We could only pay the valued amount (appraisal without sufficient water) not what the property owners felt their properties were worth. On several occasions when we have talked to property owners about purchasing their lots we have been far apart on the value.

Other efforts to acquire the Albion Basin were taken through the U.S. Congress Forest Service funds, National Land and Conservation funds and the Trust For Public Lands without success.

Salt Lake City Agrees to Take Over Little Cottonwood Water Company Water Sales Contracts

In 1990 as a means of controlling development in the Albion Basin and to protect the watershed the City agreed to take over from the Little Cottonwood Water Company all of its water sales contracts. Salt Lake

148
69N/147 B S 0182

MEMORANDUM
Anne Quinn
March 23, 1992
Page -3-

City as a first class City has extraterritorial jurisdiction, federal legislation and the organization to enforce the terms of the contracts. At first we tried to dissolve the Little Cottonwood Water Company and take over its assests. This failed because of the City's exchange contracts. It was later decided to keep the company in tact, but have the water sales contracts conveyed to the City. We are currently in the process of completing the agreement between Salt Lake City and the Little Cottonwood Water Company to accomplish this. Once the City has the contracts we will require metering and further will not certify for water service for new building permits. We may have litigation over this issue as the property owners will disagree with our position. The City should acquire the contracts within the next several months.

Other Alternatives

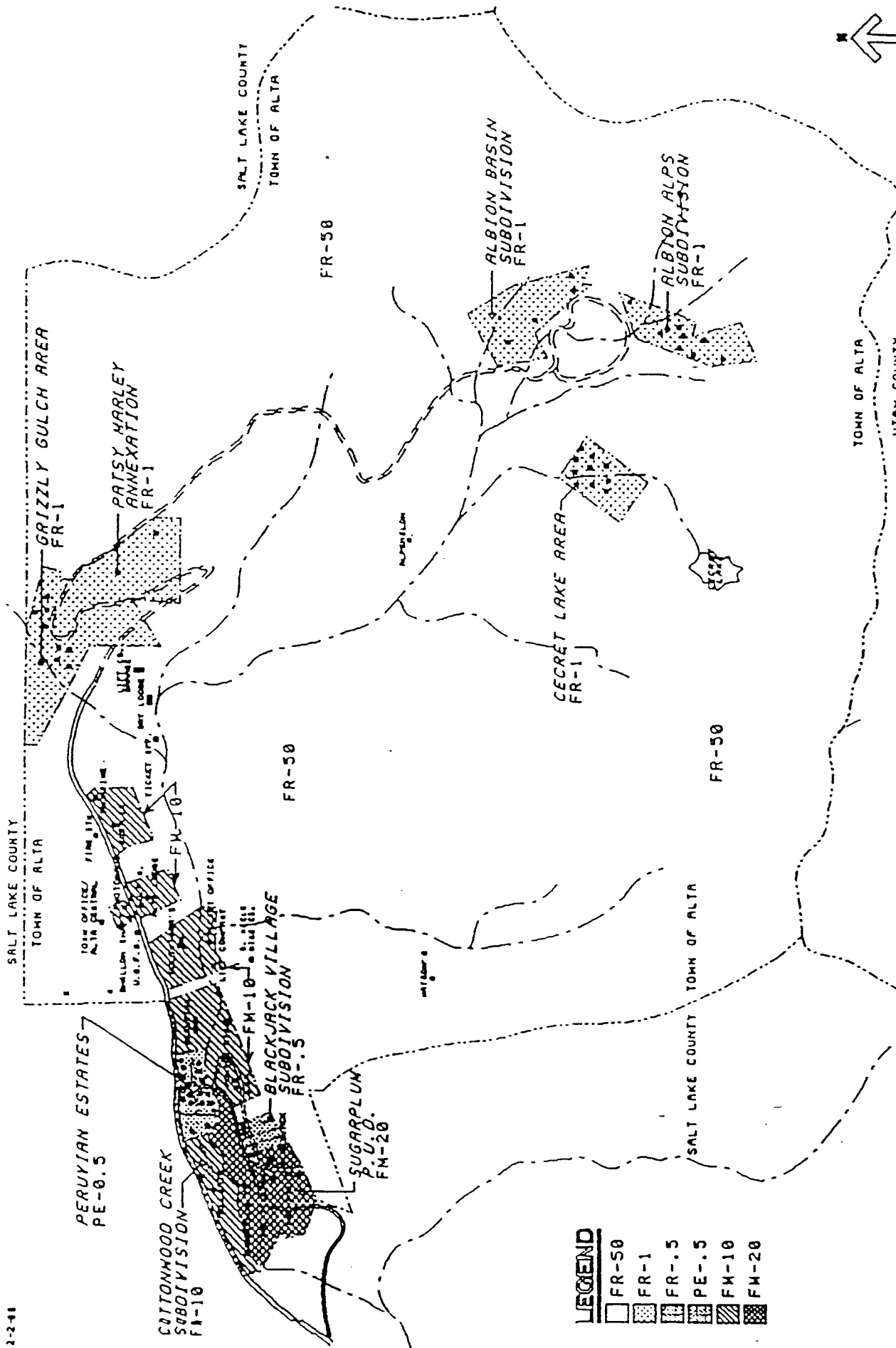
Under the Central Utah Project Completion Act, Section 313(b) there is \$4 million for, among other things, land acquisition in the Albion Basin. Perhaps with the passage of this legislation funds will be available to purchase the property (including existing structures) in the Albion Basin. This assumes that the appraisal problem can be overcome.

LWH/db

cf: Brian Hatch

..S0183

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LEGEND

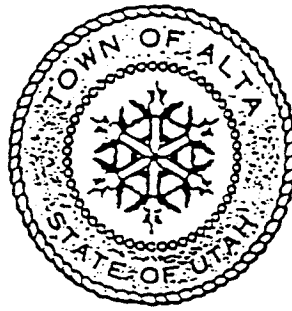
- FR-50
- FR-1
- FR-.5
- PE-.5
- FM-10
- FM-20

EXISTING ZONING MAP

ALTA, UTAH



MAYOR
WILLIAM H. LEWITT
TOWN COUNCIL
TIMOTHY R. EVENDEN
DAVID HOUGHTON
PETER O. LAWSON
TOM POLLARO



File copy
Do not REMOVE

TOWN OF ALTA
ALTA, UTAH
84092
363-5105/742-3522

March 27, 1989

Palmer DePaulis, Mayor
Salt Lake City Corporation
324 South State Street
Salt Lake City, Utah 84111

Re: Existing Policies on Building in Watershed Areas

Dear Palmer:

The Town of Alta currently has very strict regulations on building and development within the watershed. We realize that while the Town has the first line of jurisdiction regulating development within the watershed, our Albion Basin area is also within Salt Lake City's watershed, so we must work together to ensure adequate protection of the area.

Development is currently limited to one single family dwelling per acre. No building permits are granted without prior approval from the Salt Lake City Water and Water Quality Departments, and the Salt Lake City/County Health Department. These agency approvals are officially part of the Town's "outside agency checklist", as attached. If these approvals are satisfied, the Town will proceed in issuing building permits as long as all of the local regulations are met. The Albion Basin is in the FR zone. Three areas subdivided under Salt Lake County prior to annexation to the Town are zoned FR-1, requiring a minimum of one acre for a single family dwelling. The remainder of the area is zoned FR-50, which requires a minimum of fifty acres for a single family dwelling. Practically speaking, the only permitted uses allowed in the FR zones are single family dwellings. The FR zone and a portion of the zoning map covering the Albion Basin are attached for your reference. If an applicant for a building permit can satisfy all of the outside agency requirements, and the provisions of the zoning ordinance a building permit will be issued. All building must conform to the regulations outlined in the 1988 edition of the Uniform Building Code. The cover page of that code has been attached for your reference.


We have all been maintaining these regulations, but they are currently threatened by lawsuits. As long as the current regulations are subject to being overturned by court cases, or are subject to change by the whim or shifting policies of other agencies, our ability to maintain control over the Albion Basin is seriously affected.

H000468

After long deliberation, it has been the unanimous decision of the Alta Town Council and Planning Commission that acquisition, at an established fair market value, of land from people who currently cannot build due to existing policies, would be the fairest and best solution for all involved. Any landowner choosing not to participate in the acquisition would then have no viable complaints on any development restrictions affecting the property in the future.

I am grateful for all of your efforts in the past in helping us to preserve and protect the delicate watershed areas such as the Albion Basin. I am looking forward to working with you in the future in finding a permanent solution for the protection of these areas. Thank you for your continuing support.

Cordially:


William H. Levitt
Mayor, Town of Alta

enc

Full Albion Basin

I got a call from John Goldner who said that Mayor Levitt was in Moab, but had called and wanted to develop a strategy with Salt Lake City to encourage more lot sales in the basin. He believes that the USFS is too soft in their approach, and that the city could be more aggressive. He mentioned condemnation. I told him that we have never considered condemnation, as I believe that given the development in Alta and Snowbird, that it will be difficult to prove that the lots in the Albion Basin will cause anymore pollution to the drinking water than these other developments along side the creek. Our position is that Salt Lake City will not provide any additional water to the lots because, 1) physically there is no water there and 2) following our Canyon Surplus Water Sales Ordinance, no water could be developed (ie wells or imported water).

He also talked about the current law suit, where an out of stater purchased four lots and is suing the town of Alta for not providing him water. Under our contract with Alta, water can only be used within the town boundaries when we first entered into the water sales agreement. Areas that have been annexed beyond these boundaries can not be served under the agreement. I don't understand why they annexed the area in the first place.

It was agreed that we should wait and see how the law suit plays out. The town has asked the court to dismiss the suit because Salt Lake City was not named in the complaint. Oral argument is secheduled for May 23. If it is dismissed the lot owner will probably file a new suit naming Salt Lake City in the complaint.

We concluded by agreeing to wait and see what happens in court. We're sure that the other lot owners are doing the same. If the lot owner wins, they'll all feel that they can develop. If the town wins, the lot owners will probably be more willing to sell. However, if Mayor Levitt wants to pursue the condemnation angle, he'll have to bump this issue up to the administration. It's my recommendation that we not attempt this as a strategy.

LeRoy

E-mail
TO Brian Hatch
Renee Tanner
FROM Leroy Hooton
05-7-96

74N/47 JS

TIM

0 01

WATER RIGHTS PURCHASES:
AS A MEANS OF PROTECTING THE WATERSHEDS

1. Salt Lake City has had a long standing policy of acquiring water rights in the canyon streams along eastern Salt Lake County.
2. The City's water rights in Parleys, Millcreek, Big and Little Cottonwood Canyons are based on "exchange" agreements with the original appropriators, whereby Salt Lake City provides Utah Lake water in exchange for the high quality canyon water. These exchanges were made between 1888 and 1935.
3. Through these exchange agreements, Salt Lake City has gained control of the canyons.
 - a. 1914 and 1934 Congressional legislation to protect Salt Lake City Water supplies.
 - b. Utah State Legislation granted first class cities (Salt Lake City) extraterritorial jurisdiction to protect its water supply and watersheds.
 - c. Through ownership of the water rights the city has controlled growth in the canyons by controlling water sales permits. Salt Lake has had in place a water sales moratorium since 1981.
4. The City has purchased water rights as they have come available. In this manner Salt Lake City becomes the "outright owner" of the rights rather than an owner through contract. As the owner through contract, the City must fully comply with the terms and conditions of the exchange agreements. We are dealing with individual owners and companies that have their interests to protect. The City has had several law suits over the years with various companies.
5. As long as the water rights are held by the individual or the companies there is a potential for water being transferred into the canyons. A case in point is the Boyer Development in Emigration Canyon. By acquiring water rights from Mount Olivet Cemetery and transferring them up the canyon they were able to acquire the necessary water rights to develop. Salt Lake City had refused to provide water to this development.
6. If an individual or company was successful in transferring their water, either by stock or water right up into the other canyons, Salt Lake City will loose control of the ability to control growth by denying water sales contracts.

75N/147 JS

Water Rights Purchases
Page 2
August 16, 1989

7. Controlling the water rights is just as important as owning the land, where there is so much private land available. It is to the City's best interest to acquire water rights from the various owners with whom it has exchange contracts. If we do not do so, they will seek out others to meet their best interest. Up until now the city has controlled the canyons and the water rights. It would be a mistake to invite others to deal with those who own the water rights in these canyons.

LWH:mf

76N/147 JS

LEROY W. HOOTON, JR.
DIRECTOR

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
Water Supply & Waterworks
Water Reclamation & Stormwater

Memorandum

TO: Brian Hatch, Deputy to the Mayor
FROM: LeRoy W. Hooton, Jr. *LW*
DATE: August 30, 1993
SUBJECT: Little Cottonwood Water Company

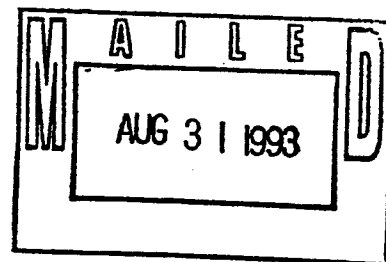
Introduction

In order to protect the Albion Basin in Little Cottonwood Canyon, it was decided that Salt Lake City would acquire the water contracts between lot owners in the Albion Basin and the Little Cottonwood Water Company and/or gain control of the company and dissolve it.

Background

The Little Cottonwood Water company was formed in 1911 and stock issued to various ditch companies and individuals using water from Little Cottonwood Creek including four companies which have exchange agreements with Salt Lake City. Their primary water right of 3.03 cfs was acquired by saving water in Little Cottonwood Creek by constructing the cutoff ditch just below what is now the Metropolitan Water District of Salt Lake City's Little Cottonwood Water Treatment Plant. They also have water rights in Red Pine and White Pine Lakes and Cecret Lake located in Little Cottonwood Canyon. Salt Lake City has exchange agreements with many of the stockholders in the Company and manages/owns the water in the lakes as well as their rights in the creek through exchange agreements. By virtue of the exchange contracts the City has liability for the actions of the Little Cottonwood Water Company but no control over their actions.

The Company entered into various water sales contracts between 1945 and 1981, and of particular concern were the contracts for lots in the Albion Basin. The contracts are for less than the 400 gpd required to develop a lot. When this area was annexed into Alta City, there was pressure for Alta to provide them culinary water as the Little Cottonwood Company contracts were inadequate. Salt



FILE

DEEDEE CORRADINI
MAYOR

77N/147 JS

Lake City promised Mayor Levitt that it would gain control of the Albion Basin contracts in order to protect the area from development by using Salt Lake City's watershed management muscle to deny them water. Also, the City would not fold under pressure to increase the volume under the contracts, whereas the Little Cottonwood Water Company would.

During the latter part of 1992, the Company became uncooperative and aggressive in its attitude toward the City, led primarily by Tony Rezack, President of the Cahoon Maxfield Irrigation Company, who along with the three other irrigation companies holding rights in Little Cottonwood Creek, initiated a law suit against Salt Lake City entitled Cahoon Maxfield Irrigation Co. et al vs Salt Lake City. Judge Rigtrup dismissed the law suit.

In accordance with the exchange contracts with the Richards Ditch, Walker Ditch and Little Cottonwood Tanner Ditch Companies their stock in the Little Cottonwood Water Company was transferred to Salt Lake City in the 1930s. This spring I requested the Company secretary to transfer the stock certificates into the name of Salt Lake City, thus eliminating eligibility of the exchange companies' members to sit on the Board of Directors. With this action, Salt Lake City and Sandy City control the company.

Action

Salt Lake City and Sandy City are moving forward to dissolve the company. The strategy is to meet with the individual irrigation companies to inform them of our intent, hold a board meeting, elect new officers consisting of Sand City and Salt Lake City members, and set forth a plan to dissolve the corporation. We hope to do this in such a way that the City's and Companies' relationship is not damaged too severely, but meet our goal of eliminating the Company.

cc: Roger Black

78W/147 JS

INTEROFFICE MEMORANDUM

TO: FILE

FROM: LeRoy W. Hooton, Jr., Director

DATE: April 3, 1992

RE: MAYOR LEAVITT MEETING

LWH

Those in attendance were: LeRoy W. Hooton, Jr., Dallas Richins, Brian Hatch, Anne Quinn, Mayor Leavitt and John Golder.

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2. We indicated to Mayor Leavitt that we didn't know how the lawsuit by Cahoon & Maxfield, et al, would affect Alta's water supply contract with Salt Lake City, but we felt that we could work through the suit and have alternatives.
3. Mayor Leavitt expressed his concern about potential development in the Albion Basin and the commercial use of some of the cabins.
4. Mayor Leavitt said that he was initiating an environmental wetlands study of the Albion Basin to define wetlands within the watershed. The study will be conducted by Steve Jensen of the City-County Health Department and has the support of the City-County Health Department and the U.S. Forest Service. He asked for Salt Lake City's support which he was given.
5. The discussion turned to the purchase of the Albion Basin private lots and Mayor Leavitt's frustration over the appraisal process. He indicated that the property owners are paying taxes on lots assessed at \$10,000 while the Forest Service appraisals would only pay for watershed land at \$200 to \$500 per lot. He said that the Lift Company had recently sold lots for \$10,000 plus a tax write-off. He further stated his concern over potential events that in the future could lead to development in the Albion Basin.
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79N/147 *AS*

INTEROFFICE MEMORANDUM

To FILE

April 3, 1992

Page -2-

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LWH/db

80N/147 JS

TIM

0 01

WATER RIGHTS PURCHASES:
AS A MEANS OF PROTECTING THE WATERSHEDS

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5. As long as the water rights are held by the individual or the companies there is a potential for water being transferred into the canyons. A case in point is the Boyer Development in Emigration Canyon. By acquiring water rights from Mount Olivet Cemetery and transferring them up the canyon they were able to acquire the necessary water rights to develop. Salt Lake City had refused to provide water to this development.
6. If an individual or company was successful in transferring their water, either by stock or water right up into the other canyons, Salt Lake City will loose control of the ability to control growth by denying water sales contracts.

8/12/147 JB

Water Rights Purchases

Page 2

August 16, 1989

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LWH:mf

82N/147 AS

1/11/99

City: Little Cottonwood
4DOT

- Operation 975-4951 Stan Burris
Engineer Region II

Russ Harner
Russ Hone
~~Garrett Green~~ Kurt

Proposed - 4DOT

- Fuel Facility -
- 4 Bays - store heavy equipment
- Living quarters (4) Avalanche
- Office for Avalanche.
- Truck Maintenance - Emergency

Alt - Fuel

- + Hard to get to in parking area
- + Pub Alt in commercial mode
- + Need both gas & diesel
- + Capacity, fueling out of tanks in pick-ups.
- +
No salt storage - except for the trucks themselves.

- Sewer is in place.
- Water by the by pass road.

- Time line - sell Cottonwood station
Early spring / Alaska 7-215 & 2700 sq.

42N/11W AS

1/11/99

Question

- ① - Will we allow water sales outside of Alta Town Boundary?
- ② Mitigation of impact acceptable?
3. Location - snowbird next to Snowbird Main fence

Get back to Stan Burns & Russ Harris.

84 N/147 DS

LEROY W. HOOTON, JR.
DIRECTOR

JOSEPH S. FENTON
SUPERINTENDENT, WATER RECLAMATION

WENDELL E. EVENSEN, P.E.
SUPERINTENDENT
WATER SUPPLY & WATERWORKS

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY & WATERWORKS
WATER RECLAMATION
1130 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84115

PALMER DePAULIS
MAYOR

March 11, 1988

Mayor William Levitt
Town of Alta
Alta, Utah 84092


Dear Mayor Levitt:

We recognize that there are existing authorized uses of private property in the Albion Basin which are only cabins with intermittent use. We feel that any further expansion beyond this limited existing use, especially commercial development, would adversely affect water quality in Little Cottonwood Canyon and would not be consistent with Salt Lake City's Watershed Management Plan (the page applying specifically to Little Cottonwood Canyon is attached).

We wish to point out that, in our existing water supply contract with the Town of Alta (dated 1976), it specifically states that the Town of Alta cannot expand its water system into areas outside of the town limits (as defined at the time of the contract) without the consent of Salt Lake City. Our Department will certainly not approve any expansion of Alta's water system into the Albion Basin.

The Salt Lake City Watershed Management Plan, developed after extensive public meetings and input, and which is now being considered by the City Council, further indicates that much of the private land in Albion Basin should be acquired as part of Salt Lake City's Watershed Acquisition Plan to preserve water quality in Little Cottonwood Canyon.

Sincerely,


LEROY W. HOOTON, JR.
Director

WE/co
90:54

SEN/INT K

management practices in Little Cottonwood Canyon. Private lands in critical watershed areas should be considered as part of the recommended land acquisition program.

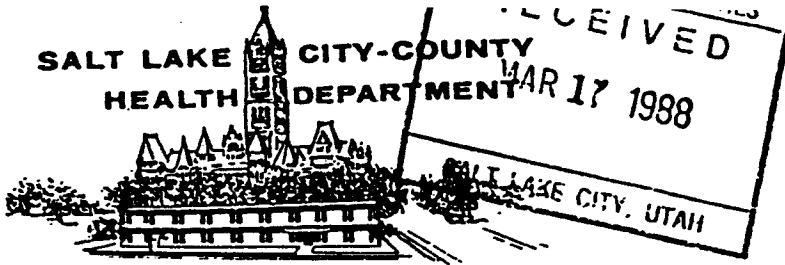
Salt Lake City should develop an inter-local agreement with Sandy City, Town of Alta, and other communities with major watershed responsibilities in Little Cottonwood Canyon to define objectives for watershed management, delineate roles and responsibilities in the Canyon, and outline policies to be pursued in the Canyon.

Implementation: 1988 for inter-local agreement, ongoing.

Explanation: Little Cottonwood Canyon has the best water quality of all the Wasatch Mountain canyons used for Salt Lake City water supply. The excellent water quality is maintained despite heavy and increasing recreational use. Salt Lake City, Alta Town, Salt Lake County Service Area #3, and private users have utilized effective watershed management practices to control potential water quality deterioration. Salt Lake City should continue to work closely with other Little Cottonwood Canyon jurisdictions to retain excellent water quality and to be vigilant in watershed protection measures.

Salt Lake City shares water rights in Little Cottonwood Canyon with other municipal entities, most notably Sandy City. Informal coordination between the municipalities has been good, but no joint policies have been developed to assure a long-term relationship and establishment of practices and responsibilities between these Canyon water rights owners. Sandy City expressed support for the inter-local agreement option of the Draft Watershed Management Plan. To delineate working relationships in the Little Cottonwood Canyon watershed, establish notification procedures for Canyon activities, and solidify general policy approaches for watershed protection, Salt Lake City should establish an interlocal agreement for the Canyon.

The Town of Alta and several respondents have noted the large amount of developable private land in the Upper Canyon that could adversely affect the watershed. Salt Lake City should evaluate these private properties as part of the broader land acquisition program recommended in this Proposed Plan.



610 South 2nd East, Salt Lake City, Utah 84111
Phone: 532-2002

HARRY L. GIBBONS, M.D., M.P.H.
Director

March 14, 1988

Mr. LeRoy Hooton, Director
Salt Lake City Department of Public Utilities
1530 South West Temple
Salt Lake City, Utah 84115

Re: Prioritization of watershed lands for City acquisition.

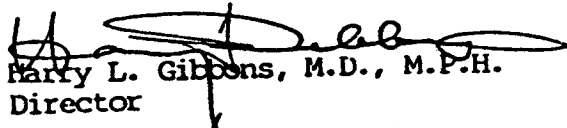
Dear LeRoy,

We are strongly supportive of Salt Lake City's efforts to identify and acquire priority watershed lands along the Wasatch Front. Such activities are consistent with the local Water Quality Management Plan for enforcing Anti-degradation on high quality streams, Section 305b Plan for priority watershed impairment, and Section 319 non-point source planning to implement best management practices. Acquisition of buffer zones in our watersheds is a critical tool that should be vigorously pursued.

The Albion Basin area has historically been debated as a development site. In view of the shallowness of soils for drainfields, steep gradients of both development sites and natural stream courses, possible 404 wetland boundary delineations, and potential for excessive construction runoff, the Albion Basin should be given high priority for future acquisition. We are cooperating with the Town of Alta on current planning studies in this regard.

We believe that large property tracts intersected by natural tributaries to our water supply and bounded by critical stabilizing wetland/riparian areas should be given first consideration for future acquisition, and we offer our assistance in developing and implementing such a planning process.

Sincerely,


Harry L. Gibbons, M.D., M.P.H.
Director

BOARD OF HEALTH
Wayne Baer, Chairman
L. Jed Morrison, M.D.
Vice Chairman
Craig E. Peterson
City Government
D. Michael Stewart
County Commissioner
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Robert Sorbonne, D.D.S.
W. Paul Thompson, Mayor
Sandy City
Sandra K. Ercanbrack
Secretary

KRM/an

87N/147 85

LEROY W. HOOTON, JR.
DIRECTOR

WENDELL E. EVENSEN, P.E.
SUPERINTENDENT
WATER SUPPLY & WATERWORKS

E. TIM DOXEY
SUPERINTENDENT
WATER RECLAMATION

JAMES M. LEWIS, C.P.A.
CHIEF FINANCE &
ACCOUNTING OFFICER

GEORGE JORGENSEN, P.E.
CHIEF ENGINEER

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
Water Supply & Waterworks
Water Reclamation

1530 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84115

FILE

DEC 20 1990
PALMER DEPAULIS
MAYOR

MEMORANDUM

TO: RAY MONTGOMERY

FROM: E. T. DOXEY *Tim Doxy*

DATE: DECEMBER 20, 1990

SUBJECT: LITTLE COTTONWOOD WATER COMPANY AGREEMENT

Will you please check with Lee Kaposloski on the status of the Little Cottonwood Water Company agreement.

/kg

cc: file

88N/147 *JB*

October 8, 2002

Lee Kapalowski, Esq.
Parsons, Behle & Latimer
One Utah Center
201 South Main, Suite 1800
Salt Lake City, Utah 84111

Dear Lee,

I understand that you presently sit on the Town of Alta Planning Commission. I also understand that you are a lawyer licensed to practise in the State of Utah. Furthermore, the planning commission is currently revising the Town of Alta General Plan which is attempting to limit private property rights, especially in it's land use policies section. You will also recall that you represent the Town of Alta and in particular appeared against me in District Court (Haik v. Town of Alta) opposing my attempt to assert my private property rights in obtaining municipal services pursuant to obtaining a building permit.

I contend that, as a lawyer for the town, you have a duty under both the Procedural Rules (i.e. "Rule of Lawyer Discipline and Disability") and the Rules of Professional Conduct (i.e. rule 1.2, Scope of Representation, Rule 1.7, Conflict of Interest: General Rule; Rule 1.9 Conflict of Interest: Former Client; and Rule 1.10 Imputed Disqualification: General Rule, Rule 1.13 Organization as a Client) to resign from your position on the Alta Planning Commission or to withdraw from representing the Town of Alta.

Your duty to act as a layperson planning commissioner serving the public interests of the town require you to include in the Alta General Plan a specific planned future course of action to provide municipal services to taxpayers within the town boundaries. The scope of your representation of the Town of Alta attaches other fiduciary duties. And your Attorney's Oath and State Bar License require you to "support, obey and defend the Constitution of the United State and the Constitution of this state and to strictly observe the Rules of Professional conduct promulgated by the Supreme Court of the State of Utah."

The intersection of these various "duties of loyalty," I believe, puts you in the crossroads of a conflict of interest. A lawyer is still a lawyer, even if acting as a non-lawyer. Therefore, advise which you provide to the planning commission constitutes legal advise. Rule 1.7 Conflict of Interest 2b states, "A lawyer shall not represent a client if the representation of that client may be materially limited by the lawyer's responsibilities to another client or to a third party..."

Rule 1.13b states, "If in a matter related to the representation of an organization, a lawyer knows that an officer, employee or other person associated with the organization is

89N/147 JS

engaged in, intends to engage in or refuses to take action in violation of a legal obligation of the organization or a violation of law that may reasonably be imputed to the organization and is likely to result in substantial injury to the organization, the lawyer shall proceed as is reasonably necessary in the best interest of the organization. In determining how to proceed, the lawyer shall give due consideration to the seriousness of the violation and its consequences, the scope and nature of the lawyer's representation, the responsibility in the organization and the apparent motivation of the person involved, the policies of the organization concerning such matters and any other relevant considerations. Any measures taken shall be designed to minimize disruption of the organization and the risk of revealing information relating to the representation to persons outside the organization, except as required by law or other rules of professional conduct. Such measures may include among others:

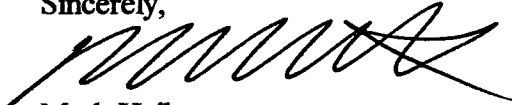
- 1) asking reconsideration of the matter;
- 2) advising that a separate legal opinion on the matter be sought for presentation to appropriate authority in the organization; and
- 3) referring the matter to higher authority in the organization, including, if warranted by the seriousness of the matter, referral to the highest authority that can act in behalf of the organization as determined by applicable law.
- c) If, despite the lawyer's efforts in accordance with paragraph (b), the highest authority that can act on behalf of the organization insists upon action, or a refusal to act, that is clearly a violation of the law and is likely to result in substantial injury to the organization, the lawyer has "good cause" to resign or withdraw, as appropriate, under Rule 1.16 (b)(6).
- d) In dealing with an organization's directors, officers, employees, members, shareholders or other constituents, a lawyer shall explain the identity of the client when it is apparent that the organization's interests are adverse to those of the constituents with whom the lawyer is dealing.
- e) A lawyer representing an organization may also represent any of its directors, officers, employees, members, shareholders or other constituents, subject to the provisions of Rule 1.7. If the organization's consent to the dual representation is required by Rule 1.7 the consent shall be given by a person or entity, other than the individual who is to be represented, properly authorized by the organization.
- f) A lawyer elected, appointed, retained, or employed to represent a governmental entity shall be considered for the purpose of this rule as representing an organization. The government lawyer's client is the governmental entity except as the representation or duties are otherwise required by law. The responsibilities of the lawyer in paragraphs (b) and (c) may be modified by the duties required by law for the government lawyer.

For the above stated reasons, I believe that you must either withdraw from representing the Town of Alta or resign from your appointment on the Alta Planning Commission.

90N/147 AS

In the event that you either refuse to take the necessary action under the Rules of Professional Conduct, I will be forced to file a complaint with the Utah State Bar Office of Attorney Conduct.

Sincerely,

A handwritten signature in black ink, appearing to be 'Mark Haik', written in a cursive style.

Mark Haik

9/12/147 AB

LEROY W. HOOTON, JR.
DIRECTOR
WENDELL E. EVENSEN, PE.
SUPERINTENDENT
WATER SUPPLY & WATERWORKS
E. TIM DOXEY
SUPERINTENDENT
WATER RECLAMATION
JAMES M. LEWIS, C.P.A.
CHIEF FINANCE &
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GEORGE JORGENSEN, PE.
CHIEF ENGINEER

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY & WATERWORKS
WATER RECLAMATION
1530 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84115
M E M O R A N D U M

PALMER DePAULIS
MAYOR

TO: LeRoy Hooton
THRU: Tim Doxey
FROM: Dallas Richins *DJR. 10/30/91*
SUBJECT: Inspection of Albion Basin Subdivision
Little Cottonwood Water Company

On two separate occasions I made trips to the Albion Basin to try and find out who was taking water for their cabins and where it was coming from.

1 - Cecret Lake Subdivision

I was able to find some of the holding tanks for the various cabins in the area and, I think, the main source of their water supply. It looks to me like the water supply for this group of cabins comes from the stream out of Cecret Lake itself. The reason for the great number of plastic pipes and hoses around the area is the distance and elevation they must go to get to the stream.

The only way I can see to meter these cabins would be to install a meter at a location next to their pumps or at a location inside of each cabin where a draining of the cabin plumbing, used to prevent the freezing of the pipes, would also drain the meter.

It looks as though some of the cabins are used only in the summer while others are built up on pillars for easy access when there is a lot of snow.

2 - Albion Alps Subdivision

Almost all of the cabins in this area are fed from the old mine shaft south and east of the top cabin. There is very little water from this source according to the users. They say it dries up in late summer and doesn't come back until early spring.

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Albion Basin Subdivision
Little Cottonwood Water Company
Page 2

The James Cabin does not seem to have any type of water supply. They do have a supply tank, but I could not find a water source any place near the cabin. The Lund home, which is quite large, has a holding tank of about 7,000 gallons and a well developed spring due east of their cabin. The Lunds have put a lot of expense into this spring.

Again, I think a meter would have to be installed inside the cabins where it could be drained in the winter when not in use; otherwise, it would have to be replaced every year.

3 - Albion Basin Subdivision

Out of the (4) four cabins in this area I could not find the source for any of the cabins. There was no one available at any of the cabins during the weekdays I was in the area.

According to the information I have been able to find, apparently there is another mine tunnel somewhere east of these cabins that gives them their water. I could not find it.

I have talked with the people from the Town of Alta, John Goldner, and he gave me a report that he had his people collect on the holding tank and water sources for each of the cabins. I am attaching a copy of that report.

From my investigation of the cabins in the area of the Albion Basin, I am of the opinion that it would be very hard to try metering the water sources. The reason being the type of construction of the buildings. Most of them have been constructed to accommodate the deep snow during the winter. It also appears that some are used only in the summer.

cc: Bill Farmer
File

Attachment

930/147 JS

Albion Basin Houses

Albion Alps Subdivision

- msg. 1. Wetzel: Out of town till Oct 1 5,000 holding tank, ^{Source: mine shaft} 3/4" line not sure which
- msg. 2. Bourne: ^{Source: mine shaft} 5,000 holding tank. 3/4" line, not sure which.
3. Woolf: they have a holding tank on the uphill (south) side of the house which holds 6,000 gal. The water line is 1 inch. Source: mine shaft
4. Lund: ^{7,000} holding tank, 1 1/2" ^{Source} line east of cabin, spring
5. Jones: yes holding, 3/4 line - remodeling, expect next summer
6. Nelson: holding tank ^{5,000} 1" (but not sure), mine tunnel
- NAH 7. Kumpfer: Water source: mine shaft stream, holding tank.
- msg. 8. Tanner: Water source: mine shaft, holding tank, 5,000

Albion Basin Subdivision

1. Knowlton: water comes from mine tunnel, line is 1 inch, they have a holding tank. Little Cottonwood is going to have to call Knowlton if they intend to do anything up there. He says he already has a contract with them, and they must contact him if they intend to change anything.
- NAH 2. White Holding tank pumps into house. No idea of tank size or line size.
3. Denkers - yes, 1", east
- NAH 4. Russel

Cecret Lake Subdivision

- NAH 1. Nebeker: two holdings tanks, looks like maybe taking the overflow from tanks by Fishers and Stewarts. No visible line
- msg. 2. Fisher: Not sure, but may share w/Stewarts. Out of town till Wed. (9-26) 2 holding tanks plus 1" line into the house
3. Stewart: 1 inch line and holding tank. can see line under house ^{3000 gallon concrete holding tank} does have meter inside cabin already, they use it for monitoring. > Now the stream stops flowing? ^{Don't see meter, originally dev. system up there. Will have his file copied & sent to us 10/5/90}
4. Draper: 1 inch line and holding tank. Get overflow from Kipp and Charlier
- ? 5. Gibbs: holding tank, can't see line
Hills are out of town till Monday (Oct 1)
6. Page: 1 1/4 inch line, probably have one of the holding tanks above the Miles cabin.

7. Kipp: 1 1/4 inch line and holding tank

8. Charlier: 1 1/4 inch line and holding tank

9. Miles: 1 1/4 inch line and holding tanks (2)

Notes: they have a holding tank in the unit. The tank is
in the back of the unit.

SALT LAKE CITY CORPORATION

PUBLIC UTILITIES ADVISORY COMMITTEE
1530 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84115

August 15, 1988

Mr. Jerry Barnes
Salt Lake County Planning
2001 South State Street
Salt Lake City, UT 84115

Dear Jerry:

We would like to comment on the "Scenario and Policy Options for the Salt Lake County Canyon Master Plan", dated July, 1988. As we read through the various scenarios, we noted the lack of emphasis on water quality and limited water availability within the canyons.

The first of our comments, is to state that our first and foremost interest is to protect the city's watersheds and water supply. The Utah State Code - Section 10-18-15 has granted the city legal authority through extraterritorial jurisdiction to protect its drinking water. Therefore, our position relative to the various options contained in the document will reflect our public responsibility regarding this matter.

The basic philosophy of the Salt Lake City Public Utilities Advisory Committee is that there should be restricted and controlled use of the watershed canyons with the primary emphasis being to protect the quality of water derived from those watersheds. This applies to both development and dispersed recreational activities. We point out again the limited amount of developable water resources within the canyons and the city's present moratorium on any new contracts for the sale of surplus water in the canyons. The Advisory Committee would like to go on record as not opposing new development, but rather supporting realistic development given the unique conditions relative to the canyons and the need to protect drinking water supplies.

This philosophy is manifest in the city's Watershed Management Plan. A number of specific provisions of that plan have implications relevant to the Canyon Master Plan. They are:

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- a) Private property is to be acquired within the canyons to protect the city's water supply and a fund has been set up for that purpose. Both private and public funds should be encouraged for this purpose. Public ownership of the canyons will insure controlled public use and reduce potential and excessive development pressures.
- b) The city supports the future construction of a sewer line up Big Cottonwood Canyon to include the Brighton Circle. No new development should be allowed until the sewer line is constructed.
- c) The city will continue to honor existing contracts for water which will permit limited development within the canyons. It needs to be strongly expressed that regardless of the potential developable land, water supply is the limiting factor. Though the exact amount of this water supply is not known, we believe that the level of consideration of this particular limitation causes major problems with each of the scenarios presented. We will oppose the drilling of wells, package water treatment facilities to treat stream water and the importation of water into the canyons.
- d) After the adoption of the Salt Lake County Master Plan, the city will consider amending its water sales moratorium utilizing the few remaining spring water sources in the canyons, which can be developed to meet State Health Standards. This may allow an additional limited amount of development in the canyons.

Specific Recommendations based on our philosophy of restricted and controlled uses within the canyons:

1. Transportation:

- A. Move towards a viable mass transit system in Big and Little Cottonwood Canyons to reduce traffic and to eliminate the need for additional parking lots in the canyons.
- B. Provide park and ride lots outside of the canyons to mesh with the mass transit system. Currently a restriction on private vehicles is not necessary, however, it may be necessary in the future.
- C. Provide incentives for use of mass transit systems.

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2. Ski Area Expansion:

Expansion to only occur within the existing permit areas as defined in the "Wasatch-Cache National Forest Land and Resource Management Plan."

3. Ski Interconnect:

This may of value but the issue requires an environmental assessment to determine the impact on the watershed and water quality.

4. Allocation of Summer and Winter Uses:

Consistant with our long standing policy we support use allocations in the canyons that meet multi-season use objectives. Land uses not meeting this criteria should be considered inconsistent. We believe that all uses should be accomodated within the canyons that are consistent with good watershed management objectives and that preserve high quality stream water.

5. Building Development Levels:

Building development levels will be limited by the available sources of spring water that meet State Health standards and existing contracts. Currently, there are approximately 587 equivalent connections (which includes 320 condo units at Solitude Ski Resort) under contract with Salt Lake City which may be developed if suitable water sources are available.

6. Water Quality:

- A. The Salt Lake City Council, on April 18, 1988, adopted the Salt Lake City Watershed Plan which directs the Department of Public Utilities to implement programs to improve water quality in the canyon streams. Specific recommendations are included in the plan.
- B. We support a low intensity level of commercial/residential development that would help maintain existing water quality in accordance with the Salt Lake City Watershed Master Plan. Impacts from dispersed recreation activities near water courses need to be monitored for potential impacts and mitigated if necessary.

- C. Protect stream environment zones and impose necessary controls and mitigation measures on the limited development to assure no degradation of water quality.

7. Olympics:

The Olympics should not be a focal point of this plan. Additional studies are required to assure the feasibility of the Olympics being held in these canyons. An environmental assessment is needed to determine the impact of such an event.

8. Recreation Mix:

We do not encourage additional recreation uses in the canyons. Future recreational facilities should be constructed on a case by case basis as needed and proven desirable and consistent with the Salt Lake City Watershed Management Plan.

9. Economic Impacts:

Economic benefits from canyon development, though important to local communities and the State, should not be an overriding factor in the planning process. Water quality should be given the primary consideration in any canyon use plan.

10. Grazing:

As current permits for grazing on public lands expire, they should be phased out. Water quality considerations should preclude grazing of domestic livestock in the watersheds.

11. Coordination of Canyon Management:

Establish a formal coordination group of officials with responsibility for canyon management.

12. Super Tunnel:

We strongly opposed the Super Tunnel concept. This is not a viable canyon project and public funds should not be spent on this concept.

13. Water Storage Facilities:

It should be recognized that there may be a future need for water storage facilities in the canyons.

99N/147 JS

14. Dispersed Motorized Recreation:

Ban non-winter off-road vehicular use except in Big Cottonwood Canyon, Cardiff Fork.

15. Mining:

It would be desirable to purchase mining claims, however, this may be impossible, therefore, this activity should be conducted under strict environmental and reclamation standards. Bonding requirements may be desirable.

16. Transportation for Trail and Climbing Access:

We recommend that parking for trailhead access not be expanded at this time. As future demand increases additional parking should be provided on a case by case basis.

17. Access for Handicapped and Elderly:

We support special paved, roped, handicapped/wheelchair/or blind trails to provide recreational opportunities to those who cannot use existing and more difficult hiking trails.

We recognized in our Watershed Management Plan that additional monitoring of the water resources in the canyons is needed in order to provide a better understanding of water quality parameters, and the effect on water quality by both building development and increased recreational uses in the canyons. We are now developing baseline data for water quality using criteria based on load allocations, storm water runoff episodes and other pollutant parameters. Future uses may need to be adjusted depending on the outcome of this research. Should it be detected that on a long term basis water quality is being degraded, the city will assert its legislated extraterritorial jurisdiction over the canyon watersheds in order to protect its water supply. That would not be a desirable course of action. The city would prefer a "go slow" course of action that allows limited development and recreational uses, which are permitted to expand only if water quality is not being degraded. To practically implement such a system, we believe that a "check point" system should be seriously considered as part of the Master Plan. With such a system, we could periodically evaluate impact on water quality and take appropriate action.

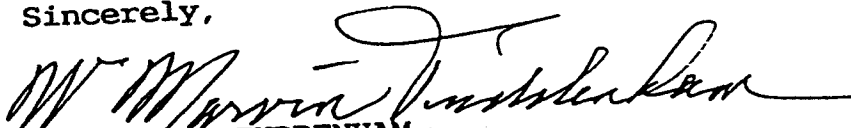
We feel that it is important that the Salt Lake City Watershed Management Plan be included in future documents in order to provide complete watershed information regarding potential uses of the canyons.

100N/MX JB

Jerry Barnes
Page 6

The Public Utilities Advisory Committee wishes to express its sincere appreciation to Salt Lake County for its efforts in developing a Master Plan to manage the future of the local Wasatch Canyons. This effort is of vital importance to the residents of the Salt Lake Valley who both enjoy the canyons and the water supply that reaches the taps of 400,000 people.

Sincerely,



W. MARVIN TUDDENHAM
Chairman, Public Utilities
Advisory Committee

LWH:WE:mf

cf: Mayor DePaulis
Emilie Charles
Salt Lake City Council
Ralph Becker
Terry Holzworth

10/12/14 JS

BOARD OF WATER RESOURCES

Feasibility Report

Conservation & Development Fund

Appl. No.: L-497

Received: 8/26/94

Approved: 9/16/94

To be Presented at the January 20, 1995 Board Meeting

SPONSOR: TOWN OF ALTA

Mayor: William H. Levitt

LOCATION: The proposed project is located in Little Cottonwood Canyon about 14 miles east of Sandy in Salt Lake County.

EXISTING
CONDITIONS
& PROBLEMS:

Alta's water, currently used by 42 domestic and 16 commercial connections (270 total equivalent residential connections) comes from within the Bay City Mine. The mine's vertical shaft is 355 feet deep but has several offshoots that go deeper. The shaft acts as a large diameter well which intercepts many waterbearing fractures in bedrock. Water is pumped up the shaft and discharged into a 4-inch PVC pipe that runs about 1,800 feet through a horizontal tunnel. The pipe connects to the town's water distribution system where it exits the tunnel; at that location there are two buildings housing booster pumps and electrical and telemetry equipment. System storage consists of two tanks holding a total of 365,000 gallons. The system is rated "Approved" by the Division of Drinking Water.

Both the water supply and pumping plant capacity exceed the flow capacity of the 4-inch pipe. Over the 18 years of its life, the pipe has been damaged by falling rocks in the tunnel, and is generally wearing out. There is also a faulty valve, near the pumps at the bottom of the shaft, which causes a reduction of pressure in the pipe.

Access to the mine is through about 40 feet of 48-inch steel culvert pipe which has begun to deflect from the weight of earth above it; the town is concerned the access culvert may collapse. The mine entrance, i.e., where the 4-inch pipe exits the tunnel, is also partially exposed to the elements through a culvert drain pipe which allows freezing of surface water on the floor of the tunnel and at times freezes the supply line.

The two buildings near the entrance of the tunnel are in disrepair, and provisions for water chlorination do not exist. One small area of town (Grizzly Gulch) is supplied

102N/147 JS

by a 2-inch line through which water is pumped to a 10,000 gallon tank. This line often freezes in the winter, cutting flow off to the area.

**PROPOSED
PROJECT:**

The town is requesting financial assistance from the board to improve its culinary water system by (1) replacing the 48-inch portal with a 72-inch portal, (2) replacing the 4-inch PVC pipe in the tunnel with 8-inch polyethylene pipe, (3) replacing the faulty valve near the pumps in the mine, (4) replacing the two utility and pumping equipment buildings with one concrete, avalanche-resistant building to consolidate the utilities, (5) replacing the 2-inch Grizzly Gulch pipeline with 4-inch PVC pipe buried deep enough to resist freezing, (6) providing chlorination facilities in the new concrete building, and (7) installing a connection to Snowbird's water system, tying the two systems together for emergencies.

Engineering is being done by Sunrise Engineering in Salt Lake City.

COST ESTIMATE:

The following cost estimate was prepared by the engineer and reviewed by staff:

<u>Item</u>	<u>Description</u>	<u>Quantity</u>	<u>Unit</u> <u>Price</u>	<u>Amount</u>
1.	Mobilization	LS	\$20,000	\$20,000
2.	Salvage Exist. Booster Pumps	LS	2,500	2,500
3.	Salvage Power & Telemetry	LS	2,500	2,500
4.	Remove 4-inch PVC Pipe	1,800 LF	3.00	5,400
5.	Remove Excess Utilities	LS	5,000	5,000
6.	Remove Exist. Retaining Wall	LS	5,000	5,000
7.	Remove Exist. Buildings	LS	10,000	10,000
8.	72-inch Tunnel Entry	41 LF	1,600	65,600
9.	Packaged Pump Station	LS	15,000	15,000
10.	New Meter/Pumps Building	LS	35,000	35,000
11.	Appurtenances	LS	8,500	8,500
12.	Chlorination Equipment	LS	5,500	5,500
13.	Tie Together Existing Systems	LS	1,000	1,000
14.	8-inch Polyethylene Pipe	1,800 LF	9.50	17,100
15.	4-inch PVC Pipe	2,200 LF	5.25	11,550
16.	8-inch Gate Valve	1 EA	650	650
17.	4-inch Gate Valve	3 EA	450	1,350
18.	8-inch Check Valve	1 EA	700	700
19.	Untreated Base Course	300 TN	7.00	2,100
20.	Bituminous Surface Course	40 TN	35.00	1,400
21.	Concrete Walkway	40 LF	75.00	3,000
Construction Cost				\$218,850
Contingencies				21,885
Legal and Administrative				8,765
Design and Construction Engineering				45,500
TOTAL				\$295,000

103 N/147 JS

**COST SHARING
& REPAYMENT:**

<u>Agency</u>	<u>Cost Sharing</u>	<u>% of Total</u>
Board of Water Resources	\$235,000	80%
Sponsor	<u>60,000</u>	<u>20</u>
TOTAL	\$295,000	100%

If the board authorizes the project, it is suggested the bonded indebtedness of \$235,000 be repaid in 20 years at 5% interest. This will require an annual payment of about \$20,000 (includes reserves).

**ECONOMIC
FEASIBILITY:**

The town of Alta lies within the Salt Lake City watershed. The town purchases its water from Salt Lake City and use of this water is governed by an agreement with Salt Lake City and the rules and regulations of the Salt Lake City Watershed Management Plan. These governing documents do not allow Alta to develop new sources of water within the watershed or obtain water from another entity within the watershed on a permanent basis.

With these restrictions, no reasonable alternative to the proposed project is available and so the benefit/cost ratio is assumed to be 1.

**FINANCIAL
FEASIBILITY:**

Based on the board's 1.25% affordability guideline, Alta residents could afford to pay up to \$14.71 monthly for water. Using the 270 equivalent residential connections, the cost of water with the proposed project is as follows:

	<u>Annual Cost</u>	<u>Cost/Conn/Mo</u>
Operation & Maintenance	\$37,815	\$11.67
Pumping	6,500	2.01
Purchase of Water	6,200	1.91
BWRe Loan	<u>20,305</u>	<u>6.27</u>
TOTAL	\$70,820	\$21.86

The town currently charges for water quarterly, the single family rate being \$99.36. A surcharge of \$0.35 per 1,000 gallons is added in July for people who use more than their yearly allocation of water, which is 168,000 gallons for a single family dwelling. The commercial rate varies with the size, but the larger lodges are charged a base rate of slightly over \$1,000 per quarter. Connection fees of \$40.00 per fixture unit average about \$1,200 for a normal residence. Town officials are planning to study and restructure the water rates next year.

Water sales revenue is about \$50,000 annually, which just covers the present expenses. An increase in water rates will be necessary to repay the loan. The town may want to look at increasing the commercial rates, or placing a

104 N/14x JS

small surcharge on lodge rooms for the transient population, so as to not place too heavy a burden on the permanent residents.

BENEFITS:

The proposed project will prevent the possibility of collapse of the tunnel portal, which is presently a safety hazard and represents a possible loss of the town's water supply. A larger portal with rail tracks will allow pumps and repair equipment to be moved through the tunnel when necessary. The project will also reduce freezing problems in the Grizzly Gulch supply line. Replacement and enlargement of the tunnel pipeline will allow use of all available water and will provide additional capacity for fire protection and growth.

**PROJECT
SPONSOR:**

Alta has 397 full-time residents and is principally a ski resort town. During the ski season the population swells to about 6,000 in the daytime and 1,000 at night. Seven of the 16 commercial water connections are lodges or condominiums and three are restaurants. In addition to drinking water, the town also provides water for snowmaking. Alta's population is fairly stable and growth is expected to remain slow. About 80% of the land belongs to the U.S. Forest Service, with private ground existing for about 25 potential new homes; it is also conceivable the lodges could expand.

Alta participated with the board in 1977 in constructing a community water system to replace several small private systems; the \$160,000, 0% interest loan is being repaid through 1996 at \$10,000 per year.

**WATER RIGHTS
& SUPPLY:**

The town does not own any water rights. Water is obtained through an intergovernmental agreement with Salt Lake City, which owns most of the water in the canyon. Alta pays the city for water use not to exceed 265,000 gallons per day.

Although water coming from within the Bay City Mine is well over 300 gpm, flow to town is presently restricted to 300 gpm by the 4-inch pipeline. Water use varies from about 5.5 million gallons per month during the winter to 1.5 million gallons per month in the summer.

**EASEMENTS
& ENVIRONMENTAL:**

All construction will be done where facilities already exist and rights-of-way should already be in place. No long-term environmental impacts are foreseen.

**WATER
CONSERVATION:**

Town officials are aware of the need for water conservation but do not presently have an official water management/conservation plan. Outside watering is restricted by the agreement with Salt Lake City, which is a significant conservation measure.

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**SPONSOR'S
RESPONSIBILITIES:**

The town will be required to make all arrangements to issue the board a non-voted revenue bond as well as verify it has adequate rights to use water throughout the repayment period and rights-of-way required to construct the project. If the project is authorized, a list of procedures and requirements necessary to close the loan will be furnished to the town.

**PROJECT
CONTACT
PEOPLE:**

Mayor:

William H. Levitt
P.O. Box 8016
Alta, UT 84092-8016
Phone: 363-5105

Engineer:

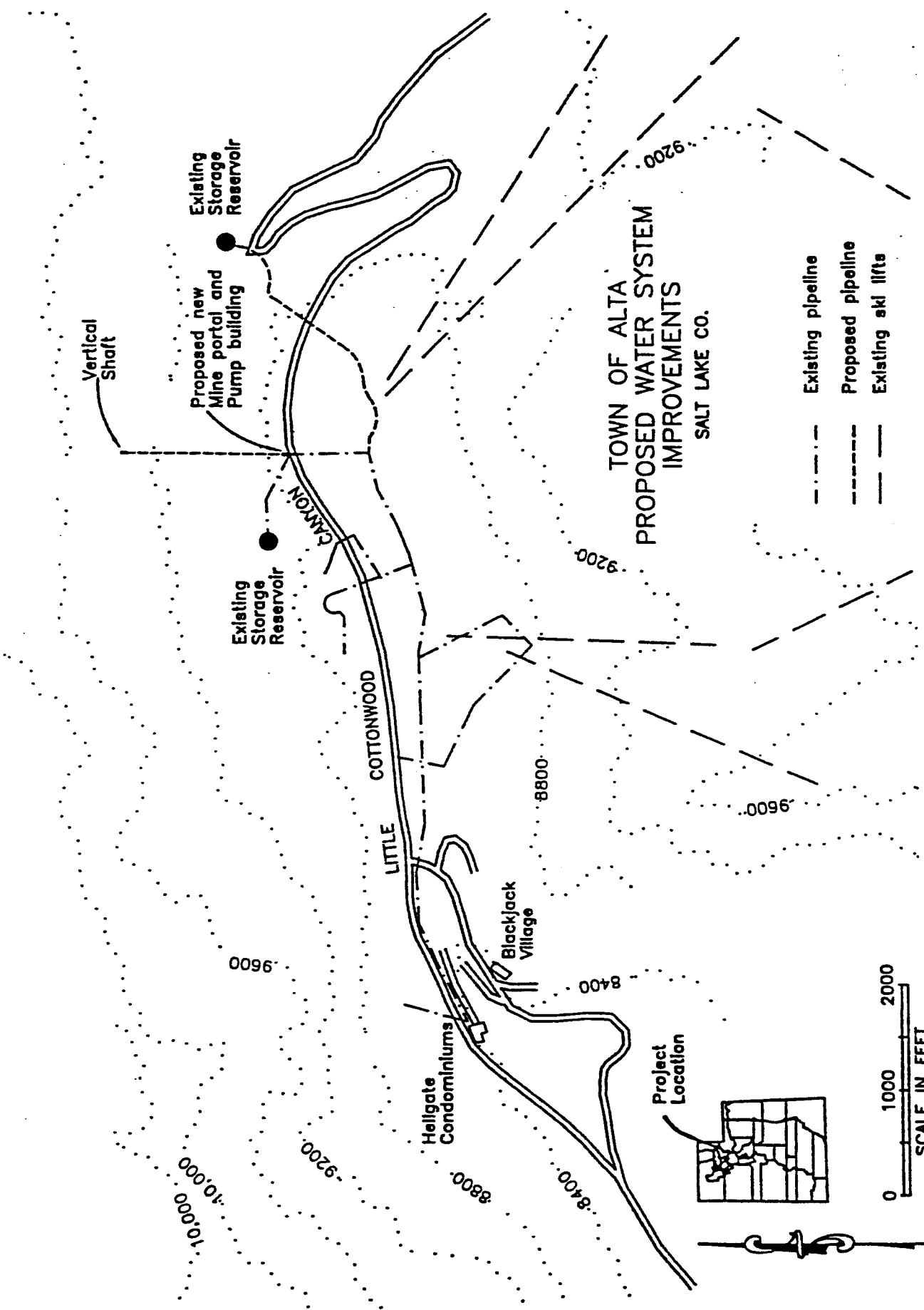
Sunrise Engineering
455 East 400 South, Suite 303
Salt Lake City, UT 84111
Phone: 363-1329

Legal Counsel:

Lee Kapaloski
Parsons, Behle, & Latimer
P.O. Box 11898
Salt Lake City, UT 84147-0898
Phone: 532-1234

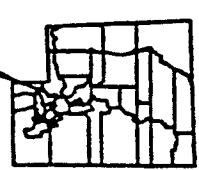
Financial Advisor:

Kimball L. Young
170 South Main, Room 520
Salt Lake City, UT 84101-1605
Phone: 521-0101



TOWN OF ALTA
PROPOSED WATER SYSTEM
IMPROVEMENTS
SALT LAKE CO.

- Existing pipeline
- Proposed pipeline
- Existing ski lifts



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FILE

SALT LAKE CITY ORDINANCE
No. 23 of 1991
(Canyon Water Sales Ordinance)

AN ORDINANCE AMENDING AND RESTATING ARTICLE I OF
CHAPTER 4 OF TITLE 17 AND ENACTING ARTICLE VII OF CHAPTER 4
OF TITLE 17 OF THE SALT LAKE CITY CODE, RELATING TO THE NEW
CANYON WATER SALES ORDINANCE.

Be it ordained by the City Council of Salt Lake City,
Utah:

SECTION 1. That Article I of Chapter 4 of Title 17 of
the Salt Lake City Code be amended and restated, and Chapter
4 of Title 17 of the Salt Lake City Code be amended by
adding thereto a new Article VII, relating to the new canyon
water sales ordinance, as follows;

Chapter 17.04 Watershed areas

Article I. General Provisions and Permits

17.04.010 Definitions.

For the purpose of this chapter, the following terms,
phrases and words shall have the meanings set forth in this
section:

A. "Limiting distance" means the distance by
horizontal measurement.

B. "Reservoir" means any natural or artificial lake or
pond.

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adverse effect upon wetlands created by such spring or the riparian zone below such spring.

6. the Department of Public Utilities finds that the development of the spring will not cause any degradation of water quality under federal, State, County and City laws and regulations.

F. "Residence" is a single family dwelling.

G. "Well" shall mean any artificially made pipe, shaft or hole sunk into the earth below the ground surface into a water bearing strata from which water may be taken.

17.04.020 Preamble - Permit required for water use--
Conditions.

PREAMBLE: Beginning in 1888, the City acquired extensive water rights to Wasatch Canyon stream flows through Exchange Agreements with irrigation companies and control over the City's watersheds through State and Federal legislation. Under State law, the City can only sell its surplus water outside the City's limits. The City has determined that except for snowmaking, fire protection and water from possible canyon springs it does not have surplus water for sale in its watershed canyons. This determination is based upon the following: canyon waters are extremely valuable to the City because they are the City's closest high quality water supplies; water from canyon streams can be delivered to most City customers by gravity flow without pumping; and water used for snowmaking affords a degree of

(3) the federal government, the State of Utah or a political subdivision thereof for the purpose of supplying water for use on property owned or leased for use by such governmental entity.

C. The City shall not be required to issue a permit in any case, but may do so in its sole discretion as provided above. The City may include in any permit conditions for spring development or use.

D. All permittees take water at their own risk where the source of supply is other than treated water from the regular city pipeline system, and all permits issued shall so state.

E. When the approved spring which an applicant desires to use is a spring which is already being used under a permit from the city, the city shall not issue a new permit unless (1) utilization of the water from such spring by the Applicant will not interfere with the supply to the other then existing permittees using such approved spring, (2) the then existing permittees using such approved spring who own a water system shall approve of such new connection to their system, except for the spring box or other spring capturing device, and (3) the existing permit shall be amended in a manner satisfactory to the then existing permittees and the City to take into account required conditions (1) and (2). The City retains the right to authorize a tap or connection for a new permittee to any spring box or other spring capturing device.

110 N/147/5

revocation when the city in its sole judgment determines that surplus water is no longer available from the city sources of supply.

B. Except as otherwise provided above, permits shall have original terms of no more than 30 years and be renewable only upon such terms as the city shall determine in its sole discretion.

17.040.50 Easements and service connections.

An applicant for a permit must supply satisfactory evidence that the applicant will be able to provide at applicant's sole expense all easements necessary for the transportation of water from the approved spring to the point where it is to be used. All permittees shall make and maintain connections at their sole expense and shall construct and maintain at their sole expense any and all water lines, spring boxes, valves, etc., necessary to supply culinary water to their premises. All connections and appurtenances, both as to materials used and method of construction, shall be subject to the approval of the city.

17.04.060 Permit--Revocation conditions.

All permits issued pursuant to the provisions of this chapter shall be subject to revocation by the public utilities director, or health director, subject to review by the mayor. Permits may be revoked for any of the following causes:

A. Nonpayment of water bills;

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inconsistent with this chapter or with respect to a use for which no permit has been issued pursuant to this chapter, including without limitation changes in place of diversion, purpose of use, importation of water from other watersheds, drilling of wells, and transfer of water rights into watershed areas; provided, however, that the City's Director of Public Utilities and the City Attorney shall determine whether to file such a protest in any particular case.

SECTION 2. This Ordinance shall take effect on the date of its first publication.

Passed by the City Council of Salt Lake City, Utah, this 9th day of April, 1990.

Tom Coffey
CHAIRPERSON

ATTEST:

Kathy Phares
CITY RECORDER

Transmitted to the Mayor on _____

Mayor's Action: X Approved Vetoed

Palmer A. DePaulis
MAYOR

Theresa McManus

Approved as to Form

3-1-91 R. Montgomery 112 N/M7



United States
Department of
Agriculture

Forest
Service

Wasatch-Cache
National
Forest

Salt Lake Ranger District
6944 South 3000 East
Salt Lake City, Utah 84121
(801) 943-1794

Reply to: 1950

Date: November 19, 1992

NOTE: We have recently changed the Salt Lake Ranger District phone number. The new phone number is 801/943-1794. The new FAX number is 801/943-1897. Our address remains 6944 South 3000 East, Salt Lake City, UT 84121.

Dear Friend:

I am writing to seek your input on several projects that we are currently considering.

1. Murray City is planning to replace a water pipeline in lower Little Cottonwood Creek that is part of a hydroelectric generating system. They are proposing to replace the existing 24" diameter pipeline with 48" diameter pipe. The new line will be in the same general location as the existing line. The pipeline lies partly on private property and partly on National Forest System lands. However, Whitmore Oxygen Company holds a perpetual easement which specifically allow them to replace the pipeline. Due to the specific legal rights granted in the easement, the decision to be made by the Forest Service covers only temporary roads to be built from Little Cottonwood Canyon Road (Highway 210) to the pipeline to afford access for construction equipment, several staging areas which would be used to temporarily store equipment and supplies during construction, and possible minor realignments of short sections of the pipeline. All access roads and staging areas would be revegetated after use.

There is an opportunity with this project to move parts of the pipeline away from the creek, and place it under an old road in the area. There is also the opportunity to upgrade the old road and existing trails in the area for recreation use. Hikers and mountain bikers currently use the area.

2. Alta United Mine Company has applied for permits for two separate projects. The first is a renewal of an existing permit for the South Hecla Mine building. This is the building located on the ski slopes at Alta, under the Wildcat chairlift, near the base of the hill. The building has been in place, in different forms, for 80 years. Also included are a buried sewer line, water line, access road, tailings piles, mine portal and underground mine facilities. Alta United Mine Company owns the mineral rights, and the Forest Service retains ownership of the surface. Forest Service mining regulations state, "All buildings, camps, equipment, and other structures shall be removed from the land within 1 year from date of completion or abandonment of the operation." The mine has been inactive for several years, with the building used primarily for housing for Alta Ski Lifts employees. The permit application also states the intent to use the building to establish the Center for Snow Science at Alta.

The second is for construction of a tunnel to access the Bay City Mine. The town of Alta draws their water supply from this mine, and one access tunnel is in place in the upper Alta Ski Lifts parking lot. Alta United Mines has stated that the equipment placed in the tunnel by the town of Alta in connection with

2.

their water system unacceptably restricts access to the mine. Alta United Mines also states that the existing access tunnel is in a deteriorating condition and that it would benefit the town of Alta, as well as Alta United Mines, to have a second tunnel in place before the first one eventually collapses. The new tunnel entrance would access the tunnel well away from the town of Alta's water supply, so contamination would not be expected to occur.


3. The Salt Lake Ranger District is proposing to construct a picnic area at the Donut Falls Trailhead along the Cardiff Fork Road in Big Cottonwood Canyon. The area receives heavy recreation use, which has resulted in resource damage, especially along the stream. Approximately eight picnic tables will be placed in the area, three along the stream. Three of the eight picnic tables would be accessible to people using wheelchairs. We are proposing construction of footbridges, stream rehabilitation, new restrooms, and general restoration of the area. The existing parking would be used, accommodating twenty-one vehicles. We expect to begin analysis for this project in December, with a decision expected in early spring.

4. We have received proposals from several companies for outfitter guide operations on the Salt Lake Ranger District. These companies propose to guide hikers, rock climbers, and back country skiers in various locations. One proposal includes constructing a yurt in Mill Creek Canyon to be used year-round for retreats. We have not taken action specifically on any of these requests yet and are looking at ways to gauge demand for these services.

These are only proposals, and no decision will be made until we have considered public input and looked at environmental effects. Please send any comments, concerns, or suggestions to District Ranger, Salt Lake Ranger District, 6944 South 3000 East, Salt Lake City, Utah 84121 by December 13, 1992.

If you would like more information or have any questions, please contact Barbara Schuster at the above address, or by phone at 943-1794. Thank you for your interest in our planning process.

Sincerely,



MICHAEL SIEG
District Ranger

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United States
Department of
Agriculture

Forest
Service

Wasatch-Cache
National
Forest

Salt Lake Ranger District
6944 South 3000 East
Salt Lake City, UT 84121
(801) 524-5042

Reply to: 1950/2720

Date: April 14, 1992

Dear Friend:

I am writing to inform you of, and seek your input on, a proposed project by Alta Ski Lifts to improve facilities and existing ski terrain served by the Germania and Sugarloaf chair lifts. The intent of the proposal is to improve access and to provide an easier and safer machine worked run for beginner and intermediate skiers to and from the top of these chair lifts. The basic proposal involves:

Sugarloaf lifts--

1. Remodel and increase the size of the Alpenglou Day lodge by approximately 5,000 sq. ft.
2. Replace the Transfer Tow across the bottom of the mountain with a new tow that would extend west to the Wildcat Ticket Office. The new tow would meet American National Standards Institute (ANSI B77.1-1990) safety requirements.
3. Bury a natural gas line to the Alpenglou restaurant.
4. Develop the Alpenglou water source to increase capacity.
5. Rebuild and upgrade the Sugarloaf Chairlift to a triple chair configuration similar to the Germania chair. This would include extending the Sugarloaf top terminal approximately 200 feet closer to the top of the ridge; installing new cross arms and wheel assemblies on existing towers; and rebuilding the bottom terminal and moving it forward approximately 50 feet.
6. Construct a road from the proposed Sugarloaf top terminal connecting the existing summer road. Extend this road to connect with Germania pass and revegetate parts of the existing summer road. This road would improve winter/summer access between Sugarloaf and Germania top terminals.
7. Install a generator to provide backup power to the Sugarloaf and Germania lifts and the Alpenglou restaurant. The generator would be housed in a building measuring 25' x 25', with a height of 12'. It would be located about 100' west of the existing bottom terminal of the Sugarloaf lift.

Upon review of this proposal we have identified the following preliminary issues:

1. **Soils and Hydrology** - How will the proposed actions affect soil and water quality and distribution?



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2. **Riparian Habitat** - Will any riparian habitat and associated resources be affected by the proposed actions?

3. **Visual Quality** - How will the proposed action affect the summer visual quality from critical viewpoints (i.e., summer access road, Albion campground, Cecret Lake trail, and Cecret Lake)?

4. **Skier Safety** - Will skier safety be improved?

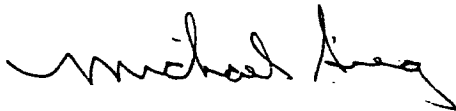
5. **Ski Area Efficiency** - Will ski area efficiency be improved by the removal of hazards and bottlenecks?

6. **Recreation** - Will summer recreationists (hikers, mountain bikers, wildflower enthusiasts) be displaced? Will the area become less desirable for summer recreation activities?

Please keep in mind that this is only a proposal; no decision will be made until your comments are carefully considered. Please send your comments by April 30, 1992 to: District Ranger, Salt Lake Ranger District, 6944 South 3000 East, Salt Lake City, Utah 84121.

If you have any questions or need more information please call Dave Ream or Barbara Schuster at 524-5042. Thank you for taking the time to participate in our planning process and for your interest in the management of your National Forest!

Sincerely,



MICHAEL SIEG
District Ranger



United States Department of the Interior

OFFICE OF THE SECRETARY

Program Director
CUP Completion Act Office
302 East 1860 South
Provo, Utah 84606-7317

ALBLA
LND 3.00

IN REPLY REFER TO:

CA-1300
ADM-13.00

MAR 10 1995

Mr. Peter W. Karp
Acting Forest Supervisor
Wasatch-Cache National Forest
125 South State Street
Salt Lake City UT 84147

Subject: Cooperative Agreement - Albion Basin Land Acquisition -
Title III - Section 313(b) - Central Utah Project
Completion Act

Dear Mr. Karp:

At a meeting on February 27, 1994, with Doug Muir, Lands Officer for the Wasatch-Cache National Forest and Bevan Kilpack, Central Utah Project (CUP) Coordinator for the Forest Service, we discussed progress on acquiring private inholdings in the Albion Basin. Your agency is under contract to this Department to pursue these acquisitions pursuant to the subject agreement.

At that meeting, we were pleased to learn that substantial progress has been made regarding these land acquisitions and that option letters will soon be mailed to 40 of 53 landowners. Issues that impede acquisitions from the remaining 13 landowners are being pursued by your realty staff.

Under the terms of our Contract (4-WS-94-00315; RU400075), \$217,000 has been obligated to fund acquisitions. Based on estimates provided by Mr. Muir, additional funds will be required should most or all of the 40 owners indicate a willingness to sell.

We urge you to move expeditiously to acquire as many lots as available funds will allow. At such time as additional funds are needed, we would support a request to the Utah Reclamation Mitigation and Recreation Commission for increased funding from current year appropriations.

19K/lot x 40 lots = 760,000 total
- 219
= 541

117 N/147 JS

If you have any questions regarding these matters, please contact
Ralph Swanson at (801) 379-1254.

Sincerely,

RALPH G. SWANSON

ACTING FOR Ronald Johnston
Program Director

cc: Utah Reclamation Mitigation and
Recreation Commission
111 East Broadway, Suite 310
Salt Lake City UT 84111

/bc: CA-1000 and CA-1300/

118 N/147 JS

OCT 31 1994

CITY RECORDER

MEMORANDUM OF UNDERSTANDING

among

**U.S. DEPARTMENT OF AGRICULTURE
FOREST SERVICE**

RECORDED

SEP 06 1994

SALT LAKE COUNTY

CITY RECORDER

SALT LAKE CITY CORPORATION

and

TOWN OF ALTA

THIS MEMORANDUM OF UNDERSTANDING is entered into by and among the U.S. Department of Agriculture, Forest Service (the "Forest Service"), Salt Lake County (the "County"), Salt Lake City Corporation (the "City") and the Town of Alta ("Alta").

PURPOSE AND OBJECTIVE

This Memorandum of Understanding is entered into for the purpose and objective of preserving to the greatest extent possible, consistent with presently existing development rights, the extraordinarily beautiful natural area at the top of Little Cottonwood Canyon in Salt Lake County, which is commonly known as Albion Basin and which is more particularly described in Exhibit A attached hereto, thereby protecting for future generations the many public benefits which are provided by this unique and delicate alpine ecosystem.

RECITALS

WHEREAS, Albion Basin is an important part of the watershed for Salt Lake Valley residents; and

WHEREAS, a significant portion of Albion Basin consists of wetlands, which provide numerous benefits to the area and the watershed; and

WHEREAS, Albion Basin provides other valuable benefits, such as flood storage, streambank anchoring and erosion control, groundwater recharge, pollution control, sediment trapping, nutrient and metal retention, fish and wildlife habitat, and recreation; and

ORIGINAL DOCUMENT

**PROPERTY OF SALT LAKE
CITY RECORDER'S OFFICE
451 SO. STATE RM. 415**

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excellent source of water", and the Public Utilities Advisory Committee has designated Albion Basin as the highest priority for acquisition from this fund; and

WHEREAS, Alta has adopted a General Plan which provides that "the acquisition of private lands, particularly within Albion Basin and wetland areas, will be diligently pursued", and that Alta should "develop a schedule of priority acquisitions and cooperate with various governmental agencies and private entities to effect removal of such lands to public ownership or trust".

AGREEMENT

In consideration of the above premises, the parties hereto agree as follows:


1. Each of the parties hereto supports the public acquisition of the land in Albion Basin which is currently owned by private persons, pursuant to voluntary sales and at fair market value, so that the public now and in the future will be able to fully enjoy all of the benefits, both existing and potential, which may be provided by the whole of Albion Basin.
2. Each of the parties hereto will cooperate in the purchase of the private land in Albion Basin, at fair market value as it becomes available by willing sellers, to the maximum extent reasonably possible, subject to the availability of funds. This Memorandum of Understanding is not intended to commit any particular party to the acquisition of any specific parcel of property.
3. Nothing herein is intended to modify the existing rights of any party with respect to the use of the private land in Albion Basin.

TERM

This Memorandum of Understanding shall become effective upon being executed by all parties. It shall remain in force and effect until terminated by mutual consent; provided, however, any party may withdraw from this Memorandum of Understanding by giving 30 days' written notice to the other parties.

IN WITNESS WHEREOF, the parties hereto have executed this Memorandum of Agreement as of the last date written below.

USDA FOREST SERVICE


Michael Sieg, District Ranger

DATE 9-29, 1994

EXHIBIT A

Legal Description of Albion Basin
for the purposes of
the Memorandum of Understanding
by and among
the U.S. Department of Agriculture, Forest Service,
Salt Lake County,
Salt Lake City Corporation and
Town of Alta

ORIGINAL DOCUMENT

PROPERTY OF SALT LAKE
CITY RECORDER'S OFFICE
451 SO. STATE ST.

124 N 142 B

Citizens Committee to Save Our Canyons

April 5, 1995

P.O. Box 58671 Salt Lake City, Utah 84158-0671

Dear Albion Basin Property Owner:

The Citizens' Committee to Save Our Canyons organization was formed by members of the public concerned about the overdevelopment and natural preservation of our local canyons. From the beginning, we have supported the acquisition of the private land in Albion Basin to ensure that it remains natural and undeveloped, so that it can continue to serve as the highest quality watershed and as quite simply one of the most beautiful places on earth that is easily accessible to the public. Because we have recently learned of the availability of some new purchase money, we are writing to encourage you to consider selling or donating your property so that it will become part of the public domain.

As you may know, pursuant to the CUP Completion Act, the Bureau of Reclamation has been given the authority and the money to purchase property in Albion Basin. The Forest Service, as the ultimate manager of any property which is so purchased, is coordinating the possible acquisitions. Currently, it is obtaining appraisals of some of the properties and we understand you will be contacted individually about the possible purchase of your property if you are interested. We urge you to seriously consider this proposal and offer.

In addition, you should be aware that Salt Lake City stands ready, willing and able to purchase private land in its watershed at fair market value pursuant to voluntary sales. There also may be significant tax advantages to you or your family if there is a charitable contribution or bargain sale of your property, options we urge you to review.

Finally, we wanted to make sure that you knew of the Memorandum of Understanding concerning Albion Basin that was recently signed by each of the governmental entities involved with Albion Basin--the U. S. Forest Service, Salt Lake County, Salt Lake City and the Town of Alta. This MOU, a copy of which is enclosed for your information, declares that the public should acquire the remaining private land in Albion Basin, and that each of these entities will cooperate in the purchase of this land, at fair market value as it becomes available by willing sellers. We believe this makes clear the governments' policies towards development of the area and hope that it will encourage people to consider selling or otherwise disposing of their property.

Again, we hope you will explore the options of selling, donating or disposing of your property in Albion Basin so that it will remain natural and undeveloped and this wonderful area can be preserved for the public benefit of future generations. This would be a magnificent contribution to the community of which you will justly be proud forever.

Sincerely yours,

Citizens' Committee to Save Our Canyons

122N/147 JS

PARSONS BEHLE & LATIMER

A Professional Law Corporation

November 16, 1995

Steven E. Clyde, Esq.
Clyde Snow & Swenson
One Utah Center, Suite 1000
201 South Main Street
Salt Lake City, Utah 84111-2208

Re: Raymond A. Haik and Mark C. Haik - Denial of Notice of Claim
Under Utah Code Ann. § 63-30-11 (1991)

Dear Steven:

As represented to you in our prior correspondence, dated September 19, 1995, this office represents the Town of Alta ("Alta"). By this letter, we are responding to the Notice of Claim letter, dated August 24, 1995, from you for your clients Raymond A. Haik and Mark C. Haik (collectively "Haiks") to Alta. The Notice of Claim is filed pursuant to Utah Code Ann. § 63-30-11 (1991) for the failure of Alta to provide Lots 25, 26, 29 and 30 in the Albion Basin Subdivision with water and sanitary service.

Alta denies the Haiks' claim. Denial is based upon Alta exercising the discretionary management of its municipal services and as previously represented to your clients in letters dated November 29, 1994, April 17, 1995 and July 26, 1995. Denial is also based upon the Water Supply Agreement, dated August 12, 1976, between Salt Lake City and Alta.

1. Facts. The Notice of Claim purports to state an accurate recitation of facts regarding the history of your clients' attempts to obtain water and sanitary sewer service to their lots. For the most part the referenced facts appear to be accurate. However, in certain instances the stated facts are either inaccurate or incomplete and misinterpret several of the referenced documents. For example, the 1981 Annexation Ordinance ("Ordinance") for the Albion Basin Subdivision limits the type of municipal services which will be provided by Alta to the subdivision. We believe that your extrapolation of select paragraphs from the Ordinance is misplaced and contrary to the specific purpose and understanding of the Ordinance. Furthermore, the 1976 Water Supply Agreement with Salt Lake City expressly limits the supply of water by Alta to any properties or facilities within the then city limits of Alta. As you know, the Water Supply Agreement provides for the protection of the watershed in Albion Basin. Any water service which Alta would propose to provide to the Albion Basin Subdivision would be contested by Salt Lake City and considered to be a breach by Alta of the Water Supply Agreement and existing Salt Lake City ordinances which affect the watershed area. Finally, at the time your clients purchased

Steven E. Clyde, Esq.
Stephen B. Doxey, Esq.
November 16, 1995
Page 2

their lots in October 1994, they were placed on constructive notice of the Ordinance and the Water Supply Agreement with Salt Lake City.

2. Nature of Claims. In the Notice of Claim, the Haiks allege that Alta has (a) refused to supply water and sanitary sewer service to their lots and (b) Alta has refused to allow them to begin the building permit process. It further states that they have four claims against Alta, including (i) an equal protection claim; (ii) a constitutional taking claim; (iii) a contract/promissory estoppel or equitable estoppel claim; and (iv) a claim for declaratory and injunctive relief. Alta denies any liability for the alleged claims and the analysis in the letter. As just one example, the Haiks rely upon Utah Code Ann. § 10-2-401(4) (1983) for support that Alta must provide water and sewer service. A closer review of this section reveals that there is no mandatory language to provide water and sewer service, but rather the term "should receive" appears to state a goal, not a blanket mandate, the achievement of which is based upon facts specific to each situation. A city such as Alta does not have a duty to provide water services to all residents and Alta has broad discretion in the management of its municipal services. There is ample case law from this and other jurisdictions to support this proposition. Consequently, there is little, if any, support for the Haiks' argument that Alta is required to provide water and sewer service to their lots and that the denial of such services violates the equal protection clause. A similar analysis can be stated with respect to the claims for a constitutional taking, a claim for contract/promissory estoppel or equitable estoppel and any claim for declaratory and injunctive relief.

3. Damages. In the Notice of Claim, the Haiks are alleged to have suffered damages as a result of their purchase of their lots in October 1994 for \$80,000 and which are alleged to be virtually worthless if they cannot be developed. Based upon the above analysis, Alta denies that your clients have incurred any damages, especially considering the circumstances of their purchases. Alternatively, even if the Haiks could claim that they have incurred any damages, which Alta denies, they purchased the lots with knowledge of the limitations on the lots and their alleged damages have not been mitigated.

4. Reservation of Rights. Finally, the Notice of Claim reserves the right to argue that the requirements of the Utah Governmental Immunity Act do not apply to some or all of the claims. You further indicate that you are contemporaneously requesting under the Government Records Access and Management Act certain documents to obtain for review of your clients' claims against Alta. It is our understanding based upon our letter, dated

Steven E. Clyde, Esq.
Stephen B. Doxey, Esq.
November 16, 1995
Page 3

September 19, 1995, and discussions by John Goldner of Alta with your office, that such documents have and are being provided for your review.

Please review the contents of this denial and contact me or Paul D. Veasy should you have any questions. Either one of us would be willing to meet with you or discuss this matter should you have any questions.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Lee Kapaloski', with a long horizontal flourish extending to the left.

Lee Kapaloski
PARSONS BEHLE & LATIMER

LEK:ljd

cc: Mayor William H. Levitt
Paul D. Veasy
W. Paul Thompson



State of Utah

DEPARTMENT OF NATURAL RESOURCES
DIVISION OF WATER RIGHTS

Michael O. Leavitt
Governor

Ted Stewart
Executive Director

Robert L. Morgan
State Engineer

1594 West North Temple, Suite 220
Box 146300
Salt Lake City, Utah 84114-6300
801-538-7240
801-538-7467 (Fax)

June 30, 1997

Wayne Grant Crawford
9503 Hunts End Drive
Sandy, UT 84092

Post-It™ brand fax transmittal memo 7671		# of pages > 3
To	C. CONDRAAT	
From	M. Sien	
Co.	CALL MR	
Dept.		
Phone #		
Fax #		

Dear Applicant: *We have 60 days to send in comments* RE: 57-10140 (A70639)

A hearing on your above-numbered application(s) has been scheduled for 10:00 a.m. Tuesday, July 15, 1997, in Room 214 of the Department of Natural Resources building, located 1594 West North Temple in Salt Lake City, Utah.

Prompt attendance of all interested parties will be appreciated. Your hearing may be conducted in conjunction with other water right hearings. Some of these hearings may exceed the time limit expected, please plan your time accordingly.

Yours very truly,

Kent L. Jones, P.E.
Assistant State Engineer
for Appropriation

KLJ:et

pc:

Alta Ski Lifts Company
c/o Russ Harmer
P. O. Box 8007
Alta, UT 84092-8007

Alta Town
c/o Lee Kapaloski
P. O. Box 11898 201 South Main
Salt Lake City, UT 84147-0898

Citizen's Committee to Save Our Canyons
P. O. Box 48671
Salt Lake City, UT 84158-0671

Great Salt Lake Audubon
c/o Penny L. Ciak
P. O. Box 520867
Salt Lake City, UT 84152-0867



RECEIVED
SALT LAKE COUNTY
JUL 2 1997
WASATCH-CACHE NATIONAL MONUMENT

126 N/147 AS

Edward M. Higbee
Commissioner for Big and Little Cottonwood Creeks
808 Marjane Avenue
Murray, UT 84107-7628

Joyce Maughan
Suite 500, Clift Building
10 West Broadway
Salt Lake City, UT 84101

Wesley H. Odell
2470 East Granite Place
Sandy, UT 84092

Salt Lake City Corporation
c/o Christopher E. Bramhall
451 South State Street, No. 505
Salt Lake City, UT 84111

Salt Lake City Corporation
c/o Joseph Novak
10 Exchange Place, 11th Floor
Salt Lake City, UT 84145

Salt Lake County Service Area #3
c/o Doug Evans
P. O. Box 920067
Snowbird, UT 84092-0067

Salt Lake County Water Conservancy District
c/o Richard P. Bay, PE(late protest)
8215 South 1300 West P. O. Box 70
West Jordan, UT 84084-0070

Sandy City Corporation
c/o Bryce McEuen
10000 Centennial Parkway
Sandy, UT 84070

Sandy City Corporation
c/o Shawn E. Draney
10 Exchange Place, 11th Floor P. O. Box 45000
Salt Lake City, UT 84145

Sierra Club Utah Chapter
c/o Ann Wechsler
2273 S. Highland Drive Suite 2D
Salt Lake City, UT 84106-2832

Sierra Club Utah Chapter
c/o Richard W. Dougherty
2273 S. Highland Drive Suite 2D
Salt Lake City, UT 84106-2832

Trout Unlimited Utah Council
c/o Paul F. Dremann
2348 Lynwood Drive
Salt Lake City, UT 84109

PAGE: 3

RE: 57-10140 (A70639)

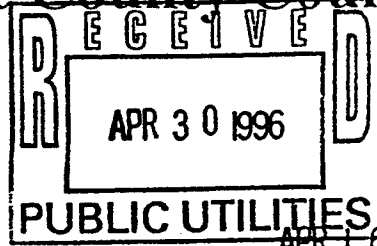
US Department of Agriculture
Salt Lake Ranger District
6944 South 3000 East
Salt Lake City, UT 84121

Utah Reclamation Mitigation & Conservation Commission
c/o Steven E. Clyde
201 South Main
Salt Lake City, UT 84111

128N/147 05.

File Albion Basin

Salt Lake County Council of Governments



Executive Secretary

Edwin E. Blaney
420 West 1500 South
Suite 200
Bountiful, Utah 84010
Telephone (801) 299-5704
Fax (801) 299-5724

April 12, 1996

Mr. Donald A. Christiansen, Chair
Utah Reclamation Mitigation and Conservation Commission
111 East Broadway, Suite 310
Salt Lake City, Utah 84111

Dear Don:

As I am sure you are aware, the Salt Lake County Council of Governments has a great deal of interest in all aspects of the Central Utah Project. Our institutional interest goes back to the inception of the project during the 1950's and has continued through the present, as the CUP has evolved beyond merely a water development and conveyance scheme to a means of preserving and reclaiming the ecological systems from which the water is derived. The more systemic approach to water development, required by Congress and accepted by the Central Utah Water Conservancy District and its client agencies, is providing Utah with strong incentives for protecting stream flows, water quality and wetlands. We feel this approach should prove very beneficial as the urban population of the state continues to grow and the demands for water, open space, and a quality environment increase. We have been especially pleased with plans for improving the habitat associated with the Jordan River environs and local watersheds.

Given our interest in the CUP and the work of your Commission, we were quite disappointed when it was brought to our attention at the April 4, 1996, meeting of the Council of Governments that funding for preservation work in the Albion Basin area of Little Cottonwood Canyon has been severely cut from past projections and zeroed out after a single year. We feel that preserving the Albion Basin watershed at this time is extremely important. Our reasons for taking this position are based on two important factors. First, this particular watershed produces much of the municipal water supply for the Salt Lake Valley and makes it possible for Salt Lake City to share its Deer Creek water resources with other Valley communities. Secondly, the main reason development in the Albion Basin has been held in check the past several years is because of Salt Lake City's decision not to provide water to any additional residential properties in the Canyon. This policy is consistent with the City's watershed management plan and its decisions not to divert water needed to meet the needs of its residents. These policies could, however, change in the future and take away a large portion of the rationale currently used to protect the Basin. The time to purchase private holdings is now while it is possible to do so with the full cooperation of the affected local governments.

Christiansen
1996

It would be most appreciated if you would inform the Commission of our concerns and relay a formal request that the proposed budget priorities be reconsidered. We feel it is imperative that the multi-year funding originally contemplated for the Albion Basin project be restored. Thank you for considering these requests. If there are questions or a need for further clarification, please contact me at 568-7109, or Ed Blaney at 299-5704.

Sincerely,



Mayor Tom Dolan
President

cc: Wayne Owens
Mayor Deedee Corradini
Mayor Bill Levitt
Brad T. Barber

130N/147 JS

Salt Lake County Council of Governments

Executive Secretary

Edwin E. Blaney
420 West 1500 South
Suite 100
Bountiful, Utah 84010
Telephone (801) 292-4469

September 7, 1988

The Honorable Wayne Owens
House of Representatives
1728 Longworth House Office Bldg.
Washington D.C. 20515

Dear Congressman Owens:

During its September 1, 1988 meeting the Salt Lake County Council of Governments received a report on efforts currently underway to identify critical watershed areas in the Albion Basin portion of Little Cottonwood Canyon that should eventually become part of the public domain. At the conclusion of the discussion, COG members unanimously adopted a motion to support efforts to acquire these critical areas.

The public acquisition of key areas within the Albion Basin was recommended in the Wasatch Canyons Goals and Recommendations Report prepared by the Council of Governments in 1983 and is consistent with the Watershed Management Plan recently adopted by Salt Lake City. The preservation of the Wasatch Canyons' watershed area is of great importance to the future of the Salt Lake Valley and public acquisition of certain areas represents the most realistic and equitable means of achieving that end. Many private land owners are so restricted by watershed ordinances in what they can do with their property as to almost constitute a "taking" of property values. Public acquisition at a reasonable price is, therefore, the best option for insuring fairness. We wish to request your assistance in efforts to acquire additional critical watershed areas.

We feel that the procedures used in the acquisition of the lower portion of Little Cottonwood Canyon constitutes the best model for acquiring Albion Basin properties. The series of land trades and purchases with public funds was recognized as fair and equitable and will ensure the retention of both public and private values. It is our understanding that a report is near completion cataloging critical areas of the Albion Basin that should be acquired. It would be most helpful if you would encourage the appropriate federal officials to carefully review

CC
LeRoy Hooten
Lanham
131 N 147 B

The Honorable Wayne Owens
September 7, 1988
Page Two

the report and provide the necessary assistance to begin an effective acquisition effort.

We appreciate your continued interest in the Wasatch Canyons and in preserving the watershed.


Sincerely,



Mayor Steve Newton
President

SN/EB/sg

cc: Mayor Bill Levitt
Richard, Kline, Salt Lake Ranger District

132N/147 



Box Utah 84097
 Phone 742-3500

Chairperson
 Joay L. Srorontz
President
 Mike Levitt

April 2002

Advisory Committee

Albert Andrews Jr., Mpls., MN
 David Arnold Jr., Concord, MA
 Ernest G. Beier, PhD, S.L.C., UT
 Gene Bliss, S.L.C., UT
 Skip Branch, S.L.C., UT
 Bradley Dewey Jr., Hanover, NH
 Michael Goldstein, MD, Brookline, MA
 Timothy L. Hogen, N.Y.C., NY
 Sholly Kagan, Alta, UT
 Edgar F. Kaiser, Jr., Vancouver, B.C.
 Janet Lawson, S.L.C., UT
 Ali Levitt, Alta, UT
 Fay Michener, N.Y.C., NY
 Gary C. Ronatyn, N.Y.C., NY
 Bruce Shand, S.L.C., UT
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 Paul & Deborah Shea, S.L.C., UT
 Richard P. Sneehey, Shoreview, MN
 Norman C. Tanner, S.L.C., UT
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 Gary Silverman, Santa Monica, CA
 Andrew G. Spiegel, Highland Park, IL
 Bob Thomas, S.L.C., UT
 Joseph F. Traub, N.Y.C., NY
 Nepon & Jack Wain, San Mateo, CA
 Stephen Wald, N.Y.C., NY
 John Windsor, Boulder, CO

Dear Friends of Alta,

After 21 years, we are making a change. To date all of our help has been volunteered. We have interviewed and found an excellent person, Laura McIndoe, who will be working with us part time to handle many of the details necessary for our ongoing programs.

In addition, we will be developing a web site, which will provide everyone with updates on our ongoing efforts. Once we get our GIS study done, we'll have it on the web site, to provide information to anyone who is interested in finding out more about Albion Basin - (schools, citizens, and all who are interested and concerned about our beautiful canyon). It will be a wonderful teaching tool.

ALBION BASIN

This past year, we tried a cooperative arrangement with a Utah-based land conservation group, unfortunately without success. This year, we are going to try a new approach to the Albion Basin landowners by hiring a nationally known law firm with expertise in Real Estate transactions to pursue our objective - making Albion Basin into a conservation area. **This is still our #1 commitment.**

The summer program in Albion Basin continues to be a very positive program. The Town and the Forest Service, along with help from Friends of Alta, continue to improve the interpretive trails. The Information Booth, for which there is no charge, has been one of the most successful efforts we have supported. Friends of Alta plans to continue its **support of this program.**

TREE PLANTING

This has been such an excellent and successful program that we plan to continue our **funding support.**

MEMORIAL GROVE

Work was done last summer, and a small granite wall was built, which will eventually have some special plaques extolling the history of Alta. In addition, we planted some trees in the Grove. The Town of Alta is hoping to finalize this summer the best utilization of the Grove. We will continue our support for the Memorial Grove.

BACKCOUNTRY AVALANCHE FORECAST CENTER

This superb program continues to provide important information for back country skiers, and to save lives, and Friends of Alta plans to continue our support.

ENVIRONMENT AND EDUCATION

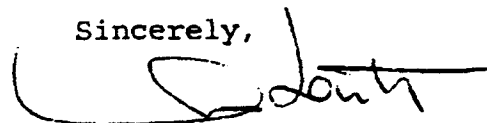
A.C.E. (Alta Community Enrichment) had another very successful year. Especially well received were the "Fifth Annual Wilderness Forum"; the 3rd Alta Film series, and the Olympic Cultural Heritage program. We will renew our support. Alta Historical Society continues to collect and display items of historical importance, and through a variety of programs educates the public to Alta's history; we plan to continue our support. The Little Cottonwood Interim Elementary School is thriving, and Friends of Alta will continue our assistance here as well.

Last year, funding was approved to commence a GIS (Geographic Information System) study of Albion Basin, but we got such a late start that the project was delayed. We will get under way with the study this summer. This study will provide information not only for the Town's Planning Commission, but also for others who are interested in preserving and protecting Albion Basin. This will be done in cooperation with the U.S. Forest Service, Salt Lake City (who owns the water), the Alta Ski Lifts, and the Town of Alta. Also, Alta's Master Plan is under revision. The Town's Planning Commission is seeking a plan which will insure that the future of Alta, both environmentally and aesthetically, would be maintained in the same spirit that now exists. Friends of Alta will be contributing our ideas and support.

APPEAL

We believe we are making a strong contribution to the preservation of the Alta area, not only for the benefit of our residents, but for all of you who visit both summer and winter. It is with your help that we have been able to keep Alta the gem we all cherish. The continued support for Friends of Alta has made this possible. There is still a lot to be done. So, once again we are appealing for funds so that we can continue our land acquisition and educational programs.

Sincerely,



Mimi Levitt
President

Wendell Evensen

Albion Basin
FILE

LEROY W. HOOTON, JR.
DIRECTOR
WENDELL E. EVENSEN, P.E.
SUPERINTENDENT
WATER SUPPLY & WATERWORKS
E. TIM DOXEY
SUPERINTENDENT
WATER RECLAMATION
JAMES M. LEWIS, C.P.A.
CHIEF FINANCE &
ACCOUNTING OFFICER
GEORGE JORGENSEN, P.E.
CHIEF ENGINEER

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY & WATERWORKS
WATER RECLAMATION
1530 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84115

PALMER DEPAULIS
MAYOR

BRIEFING MEMORANDUM

TO: The Honorable Palmer A. DePaulis
Mayor of Salt Lake City

FROM: LeRoy W. Hooton, Jr. *LWH*
Director

DATE: August 26, 1988

RE: SALT LAKE CITY ACQUIRING THE LITTLE COTTONWOOD WATER
COMPANY AND PURCHASING WATERSHED PROPERTY IN THE ALBION
BASIN, LITTLE COTTONWOOD CANYON, UTAH

The Albion Basin, located at the head waters of Little Cottonwood Canyon above the Town of Alta, is prime watershed for Salt Lake City. There is great concern that this area may be further developed or that uses may increase from existing cabins commercially renting to the public. Currently, there are three approved subdivisions, Cecret Lake, Albion Alps and Albion Basin. I'm told there are 63 lots within the three subdivisions, of which exists approximately 51 acres of vacant land and 40 undeveloped lots. The pressure to increase the uses of the existing buildings and construct new buildings, present serious problems to the canyon and water quality. On March 17, 1988, Mayor Levitt addressed the Public Utilities Advisory Committee

135N/147 *JS*

and requested that the City purchase the private lands in order to preserve the City's watershed. He indicated that additional development would be detrimental to water quality. The committee took no formal action at that time.

The Public Utilities Department has reviewed this matter and is ready to recommend that the Albion Basin have among the highest priority in regards to land purchases under the City's new watershed land acquisition fund; and that the City enter into an agreement with the Little Cottonwood Water Company to dissolve their company and convey their water sales agreements and assets to Salt Lake City.

The Little Cottonwood Water Company was incorporated on April 24, 1911, to protect the water rights of the various water users of Little Cottonwood Creek and to enter into a law suit over water rights as a result of the Wasatch Tunnel. Later they dug the "cutoff ditch"(along side the present Willow Creek Golf Course) and received a water savings certificate on July 15, 1919, for 5.0 cfs. As of 1933, the company allocated 3.03 cfs of water to ten ditches. Also, they constructed the Red Pine Dam in Little Cottonwood Canyon and were issued a certificate water right on April 7, 1930 for 213 acre-feet. Originally the company was formed by the 28 ditch companies having water rights in Little Cottonwood Creek; the present ownership of stock in the company includes only 10 companies. Salt Lake City became involved because of its exchange agreements with the Richards Ditch, Cahoon & Maxfield, Little Cottonwood Tanner and Little Cottonwood Walker Ditches. In order for Salt Lake City to participate on

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the Board of Directors, Charles W. Wilson has been issued one share of stock and sits on a nine member board of directors who manages the company. Based on stock ownership, Salt Lake City has no control of the company, however, decisions in the past have not been made on a stock ownership basis.

Many years ago, the Little Cottonwood Water Company entered into water sales contracts with various ski lodges (before the Town of Alta was founded) and with the Whitmore Oxygen Company. When the Town of Alta incorporated, Salt Lake City entered into a surplus water sales contract with the Town.

About 30-years ago, the Little Cottonwood Water Company entered into agreements with Albion Basin and Albion Alps Subdivisions and within the last 10-years with the Cecret Lake Subdivision. The Albion Basin and Cecret Lake Contracts are for only 50 gpd per cabin which is not enough to meet the Health Department's requirement of 400 gpd/cabin; therefore, no new building permits have been allowed for the remaining undeveloped lots. The Albion Alps Subdivision contract does not specify an amount, but the source of supply limits the amount of water available to the subdivision. According to company officials, they have held the line in increasing the contract amount, but they feel that the City is in a better position to administer the contracts and protect the watershed.

Also, the Company doesn't want to be in the culinary water business, as they could loose their mutual irrigation company status and have to pay taxes. It is recommended that they dissolve their company and through an agreement, give control of

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their assets including water contracts with the three subdivisions and Whitmore Oxygen to Salt Lake City. In this manner, the City would be in a better position to control development under its existing Watershed Master Plan and extra-territorial jurisdiction to protect its watershed. In controlling the water contracts, the City would be in a better position to purchase the undeveloped lots.

The acquisition of the Little Cottonwood Water Company and the purchase of undeveloped lots in the Albion Basin are consistent with the City's Watershed Master Plan and its effort to protect its water supply and watershed. Understanding that this could be messy and time consuming, this, however should not discourage us from doing what is necessary to protect the Albion Basin from undesirable development and potential water pollution.

The following is a sequence of events:

- * 8/22/88 Met with Congressman Wayne Owen's staff and Mayor Levitt to discuss problems in Albion Basin and to see if Federal funds could be made available to purchase existing subdivision lots.
- * 8/25/88 Meeting between Richard Moffat, President of the Little Cottonwood Water Company, Charles Wilson, Secretary, Ray Montgomery, Assistant City Attorney, and LeRoy W. Hooton, Jr., Director of Public Utilities.
- * 8/30/88 Meet with Mayor DePaulis and Mayor Levitt.
- * 8/31/88 Little Cottonwood Water Company Board Meeting to take official action to dissolve the company and enter into agreement with Salt Lake City.
- * 9/1/88 Mayor Levitt request that C.O.G. recommend that the private lands in Albion Basin be purchased for watershed protection.

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* 9/15/88

Staff recommend to the Public Utilities Advisory Committee that Albion Basin have top priority for watershed acquisition funds. Also, state to the Metropolitan Water District of Salt Lake City that as a condition for Alta to annex into Metropolitan District, that they not serve water to the Albion Basin (same requirement they have under existing City water sales agreement).

* dates to
be set

Undertake program to purchase watershed land in Albion Basin.

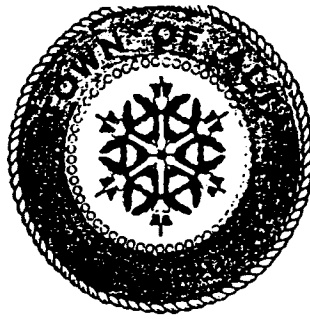
Execute agreement with Little Cottonwood Water Company.

Annex Alta into Metropolitan Water District.

LWH/co

139N/147 JS

MAYOR
WILLIAM H. LEVITT
TOWN COUNCIL
TIMOTHY R. EVENDEN
DAVID HOUGHTON
PETER Q. LAWSON
CHARLES B. MORTON



TOWN OF ALTA
RECEIVED
ALTA, UTAH
84092
JUL 20 1988 363-5105/742-3522
SALT LAKE CITY-COUNTY HEALTH DEPT

July 15, 1988

Bart Barker, Chairman
Salt Lake County Commission
2001 South State Street #N2100
Salt Lake City, Utah 84190-1000

Dear Bart:

Following your suggestion I am writing of our concerns with regard to allowing commercial rentals (daily or weekly) of single family homes in Big Cottonwood Canyon.

The allowing of such rentals will have a severe impact on a similar problem we are dealing with in Alta in Little Cottonwood Canyon.

I enclose the latest communication from the so called homeowners association of Alta's Albion Basin. I am also enclosing copies of letters addressing this problem from Judge Moffat, Leroy Hooten and Harry Gibbons so that you may understand that this problem goes beyond Alta and involves the protection of the watershed.

The areas in question do not have sewer, water, winter road access or adequate communication systems. Also the Alta area is considered a fairly hazardous one during avalanche control periods. Of even more significance, these cabins are on land with so little topsoil that any further use will become a dangerous factor in the further degeneration of the watershed. The Alta Planning Commission is against any further commercialization of the area, as is the Alta Town Council.

Further, you should know that the County originally approved the subdivisions in Alta with lots of less than 1/3 of an acre, while the requirements at the time, as they are now, called for a minimum of one acre for single family dwellings. There are over 40 lots remaining, in addition to the 21 currently built on. Should commercial use be permitted, these lots will certainly be built on and the problem compounded.

I and the members of the Alta Town Council would be happy to meet with you, and the other Commission members, should you deem it adviseable, to discuss our concerns threatening the watershed.

140N/147 *JS*

If possible it might be advisable to include City Water people, the County Planning Commission and Bear West to more fully identify the threat to the watershed by the increased encroachment in the watershed.

You should also be aware that the Town of Alta will be working closely with the Salt Lake Public Utilities Board and the Salt Lake City Water Department along with the Trust for Public Lands, the Forest Service, Nature Conservancy and the Friends of Alta to develop a comprehensive acquisition plan for Albion Basin, as well as critical lands in Big Cottonwood Canyon, so that potentially developable land can be removed as a threat to the watershed and environment in general. Any allowance or expansion of commercial development will make that acquisition task much more difficult.

Cordially



William H. Levitt
Mayor, Town of Alta

enc

141 N/147 JS

LERoy W. HOOTON, JR.
DIRECTOR

JOSEPH S. FENTON
SUPERINTENDENT, WATER RECLAMATION

WENDELL E. EVENSEN, P.E.
SUPERINTENDENT
WATER SUPPLY & WATERWORKS

SALT LAKE CITY CORPORATION

DEPARTMENT OF PUBLIC UTILITIES
WATER SUPPLY & WATERWORKS
WATER RECLAMATION
1115 SOUTH WEST TEMPLE
SALT LAKE CITY, UTAH 84115

PALMER DePAULIS
MAYOR

March 11, 1988

Mayor William Levitt
Town of Alta
Alta, Utah 84092

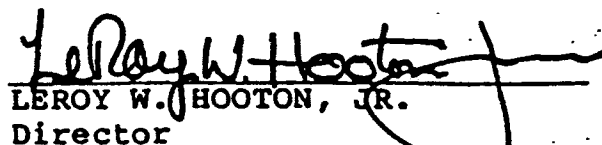
Dear Mayor Levitt:

We recognize that there are existing authorized uses of private property in the Albion Basin which are only cabins with intermittent use. We feel that any further expansion beyond this limited existing use, especially commercial development, would adversely affect water quality in Little Cottonwood Canyon and would not be consistent with Salt Lake City's Watershed Management Plan (the page applying specifically to Little Cottonwood Canyon is attached).

We wish to point out that, in our existing water supply contract with the Town of Alta (dated 1976), it specifically states that the Town of Alta cannot expand its water system into areas outside of the town limits (as defined at the time of the contract) without the consent of Salt Lake City. Our Department will certainly not approve any expansion of Alta's water system into the Albion Basin.

The Salt Lake City Watershed Management Plan, developed after extensive public meetings and input, and which is now being considered by the City Council, further indicates that much of the private land in Albion Basin should be acquired as part of Salt Lake City's Watershed Acquisition Plan to preserve water quality in Little Cottonwood Canyon.

Sincerely,


LERoy W. HOOTON, JR.
Director

WE/co
90:54

142 N/147 AS

LITTLE COTTONWOOD CANYON WATERSHED MANAGEMENT

Recommendation: Salt Lake City should maintain the existing watershed management practices in Little Cottonwood Canyon. Private lands in critical watershed areas should be considered as part of the recommended land acquisition program.

Salt Lake City should develop an inter-local agreement with Sandy City, Town of Alta, and other communities with major watershed responsibilities in Little Cottonwood Canyon to define objectives for watershed management, delineate roles and responsibilities in the Canyon, and outline policies to be pursued in the Canyon.

Implementation: 1988 for inter-local agreement, ongoing.

Explanation: Little Cottonwood Canyon has the best water quality of all the Wasatch Mountain canyons used for Salt Lake City water supply. The excellent water quality is maintained despite heavy and increasing recreational use. Salt Lake City, Alta Town, Salt Lake County Service Area #3, and private users have utilized effective watershed management practices to control potential water quality deterioration. Salt Lake City should continue to work closely with other Little Cottonwood Canyon jurisdictions to retain excellent water quality and to be vigilant in watershed protection measures.

Salt Lake City shares water rights in Little Cottonwood Canyon with other municipal entities, most notably Sandy City. Informal coordination between the municipalities has been good, but no joint policies have been developed to assure a long-term relationship and establishment of practices and responsibilities between these Canyon water rights owners. Sandy City expressed support for the inter-local agreement option of the Draft Watershed Management Plan. To delineate working relationships in the Little Cottonwood Canyon watershed, establish notification procedures for Canyon activities, and solidify general policy approaches for watershed protection, Salt Lake City should establish an interlocal agreement for the Canyon.

The Town of Alta and several respondents have noted the large amount of developable private land in the Upper Canyon that could adversely affect the watershed. Salt Lake City should evaluate these private properties as part of the broader land acquisition program recommended in this Proposed Plan.

See Hoffman

July 20, 1976

Mr. Charles W. Wilson
General Superintendent
Water Supply and Waterworks
1530 South West Temple Street
Salt Lake City, Utah

Dear Sir:

In accordance with your recommendation, the Board of City Commissioners at its meeting today, granted Alta Ski Lift Company permission for additional water for the Alpen Glow facility in Albion Basin above Alta in Little Cottonwood Canyon.

This facility is to be enlarged to accommodate the persons now using the ski lifts in the Basin and to protect the watershed.

The City Attorney is hereby directed to prepare an agreement therefor.

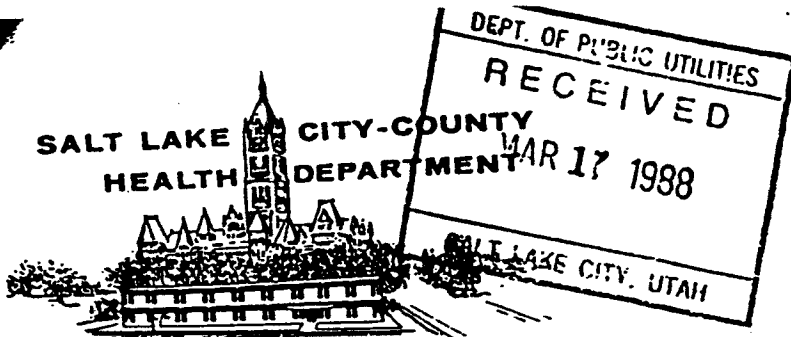
Yours truly,

Mildred T. Hughes

City Recorder

ms
CC:
ATTORNEY
- Health
Water
Alta Ski Lift Co.
Files

144 N/147 AS



BOARD OF HEALTH
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L. Jed Morrison, M.D.
Vice Chairman
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Robert Sorbonne, D.D.S.
W. Paul Thompson, Mayor
Sandy City
Sandra K. Ercanbrack
Secretary

610 South 2nd East, Salt Lake City, Utah 84111
Phone: 532-2002

HARRY L. GIBBONS, M.D., M.P.H.
Director

March 14, 1988

Mr. LeRoy Hooton, Director
Salt Lake City Department of Public Utilities
1530 South West Temple
Salt Lake City, Utah 84115

Re: Prioritization of watershed lands for City acquisition.


Dear LeRoy,

We are strongly supportive of Salt Lake City's efforts to identify and acquire priority watershed lands along the Wasatch Front. Such activities are consistent with the local Water Quality Management Plan for enforcing Anti-degradation on high quality streams, Section 305b Plan for priority watershed impairment, and Section 319 non-point source planning to implement best management practices. Acquisition of buffer zones in our watersheds is a critical tool that should be vigorously pursued.

The Albion Basin area has historically been debated as a development site. In view of the shallowness of soils for drainfields, steep gradients of both development sites and natural stream courses, possible 404 wetland boundary delineations, and potential for excessive construction runoff, the Albion Basin should be given high priority for future acquisition. We are cooperating with the Town of Alta on current planning studies in this regard.

We believe that large property tracts intersected by natural tributaries to our water supply and bounded by critical stabilizing wetland/riparian areas should be given first consideration for future acquisition, and we offer our assistance in developing and implementing such a planning process.

Sincerely,


Harry L. Gibbons, M.D., M.P.H.
Director

KRM/an

145 N/147 AS

7/18/88
Dear Dr. Gibbons:

Bill wanted me to send
you this to keep you
informed on what is
happening up here in
Alta.

We will keep you
informed.

John Guldnes
Town of Alta

Little Cottonwood Water Co.

INCORPORATED

and R. H. MOFFAT, President
CHARLES W. WILSON, Secretary

March 15, 1988

Mayor William Levitt
Town of Alta
Alta, Utah

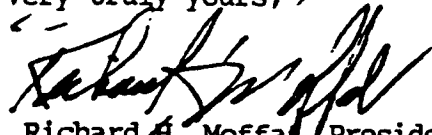
Dear Sir:

We have been advised that some of the property owners in Albion Alps Subdivision, who have signed the Water agreements with this company dated September 22, 1971, claim they are entitled to purchase and unlimited amount of water.

While it is true the contract does not specifically limit the number of gallons per day to fifty gallons as do the other two contracts in the Albion Basin, we must point out that the contract designates the mine tunnel located on adjacent property owned by Norman Tanner and that the supply is limited.

The Company never intended to supply multiple dwelling units or commercial buildings as we understood that this limited water source would only supply mountain cabins the same as the other two contracts in the Basin. The Company always felt that the flow from the tunnel limited the amount that could be supplied and it was never the intent to supply additional water.

Very truly yours,


Richard H. Moffat, President

147 N/147 JS